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August 8, 2008

Hon. Meenakshi Srinivasan
New York City Board of Standards and Appeals
40 Rector Street
New York, NY 10006

Re: 238-07 BZ
5-11 47th Ave., LIC

Dear Chair Srinivasan:

In its August 1 submission, the opposition asks the Board, among other things, to reduce the scope of the environmental cleanup, hold more hearings, require speculative Brownfields credits to be assumed as fact, assume the viability of a two-level retail mall with no parking, eliminate accessory parking, equate the project density to the Upper East and West Sides of Manhattan, compare a 13-story residential building to the Equitable Building, and substitute doctor's offices for the Queens Council on the Arts.

The opposition's most irresponsible and dangerous argument is that the scope of the environmental cleanup should be substantially reduced so as to permit an unspecified lowering of the height of the 13-story residential building. This is unacceptable, as it would increase the health risks to both the occupants of the project and the community. The public health and welfare is best protected by a comprehensive cleanup of this contaminated site, as proposed by the Applicant.

Background

The LICC submission states that more than 300 members of the "Long Island City Community" [sic] have signed a letter in opposition to the project, implying the LICC has over 300 members. This is misleading. While a letter under Mr. Paino's signature, attaching a list of individuals under the heading "Opposing the Zoning Variance for OCA LIC" was addressed to the Chair of the City Planning Commission on April 28, 2008, this letter was not sent on behalf of the LICC.

The April 28 letter requested the CPC Chair's "assistance" in explaining the underlying zoning to the BSA Commissioners. This assumes that the BSA does not have the

expertise to understand the zoning on its own. City Planning never responded to this letter and has not appeared at the BSA. The Commission's decision not to respond or appear is relevant because, under Section 668(e) of the City Charter:

The City Planning Commission shall be a party to any proceeding to determine and vary the application of the zoning resolution. The commission may appear and be heard on any application pursuant to this section before the board of standards and appeals if, in the judgment of the city planning commission, the granting of the relief requested in such application would violate the requirements of the zoning resolution relating to the granting of variances."

Prior to filing the instant application with the BSA, the Applicant met with Department of City Planning to review the design and density of the project. These meetings resulted in a number of changes, including a reduction in height and the addition of setbacks. As conveniently ignored by the opposition, the official representatives of the Long Island City community, the Community Board and elected officials, support the project. The "Long Island City Community" does not represent the Long Island City community.

"A" Finding

Reduction in Scope of Cleanup

The LICC's underlying strategy in this case is irresponsible and dangerous -- i.e., to achieve an unspecified reduction in the height of the proposed residential building by reducing the scope of the environmental cleanup. It is hard to imagine that any informed community resident would support this strategy. Certainly, the Board should not.

A brief letter from Carpenter Environmental Associates ("CEA"), attached the LICC Letter, supports a reduced cleanup. The CEA letter, among other things, characterizes the site as "historic fill," ignoring the fact that, by definition, historic fill is not applicable to sites with a history of hazardous materials operations and known hazardous materials disposal. We know that hazardous materials were disposed on site -- EPA said so in its RCRA enforcement action and imposition of a RCRA deed restriction. In addition, the Applicant's environmental engineer witnessed it first hand. The opposition has failed to identify of any other "historic fill" sites that held a RCRA permit or have a RCRA-imposed deed restriction. That CEA continues to treat this as a "historic fill" site discredits their entire argument. A response to CEA is set forth in a letter from the Applicant's environmental engineer attached as Exhibit "A".

To compound the opposition's error, the LICC submission concludes, based on CEA's characterization, that the site "poses no risk to human health or the environment." The community members who purportedly support the LICC submission should be outraged.

Further Request for Delay

The opposition's claim that there is insufficient data for the Board to make a decision is disingenuous. The opposition did not appear in this matter until the second Board hearing. Since that time, the LICC has continually requested more hearings and more time, which the Board has granted. More hearings result in more testimony and written submissions, which allows the LICC to complain about needing additional time. Not surprisingly, the current LICC submission "requests that this hearing be continued."

The Applicant submits that ample information has been presented, including first and foremost the EPA deed restriction, which CEA simply ignores; the extensive industrial history and multiple distinct users and uses of this property; and the mix of petroleum and solvent based contaminants and heavy metals. The opposition's argument that the hearing should remain open until further information is provided is nothing more than an excuse to delay the project.

Brownfields

With respect to the New York State Brownfields Cleanup Program ("BCP"), the attorney for the opposition reports writes that he has spoken with an official at the Department of Finance regarding tax credits and obtained a "fact sheet" on the program. This conversation is, of course, pure hearsay. However, the substance of the discussion -- that the Applicant is grandfathered for tax credit purposes under the BCP program as it existed prior to the new legislation -- is not in issue. The Applicant clearly explained this in its last submission and provided a copy of the legislation to the Board.

The key point is that the Applicant cannot receive any tax credits unless it first obtains a remedial Certificate of Completion (COC") from DEC. Obtaining a COC in any case will be far from easy, and in this case is likely to be a far longer and more expensive process than the opposition suggests due to the complexity of the contamination and the likelihood of changes in cleanup standards under the BCP.

For example, on August 4, 2008, WNYC and several other news outlets reported that "New York environmental groups are warning that even after clean up brownfield sites may not be truly safe for new development." These environmental groups, led by NYPIRG, are preparing to publish a report criticizing New York State and showing that "the federal government and other states often have stricter cleanup standards for brownfields than New York does."

As is apparent, the adoption of the new BCP legislation has resulted in renewed focus on tightening the cleanup standards. This site contains heavy metals; according to NYPIRG:

"Now that the state has addressed the problems with the brownfield tax credits, we are calling on the DEC to turn its attention to the concerns we

have raised for quite some time about the weak cleanup standards...take for example lead. The state allows five times more lead to stay on-site than the federal government allows. Arsenic, the state allows arsenic levels ten times higher."

A number of environmental groups have sued DEC to impose stricter cleanup standards. That lawsuit—and this issue—are far from being resolved. The BCP is still a young and evolving program, and it remains to be seen whether, to what extent, at what time and at what cost the Applicant may obtain tax credits. Under these circumstances, the receipt of tax credits is speculative and should not be assumed in the Board's financial analysis.

"B" Finding

Without the benefit of any financial or marketing expertise, the LICC submission argues that the M1 portion of the site could be developed for retail and commercial use so as to generate a higher rate of return. The Applicant, one of the most active residential developers in the City, as well as the Applicant's expert financial consultant, with more than 30 years of professional experience, disagree. The absence of significant commercial development in the vicinity of the site (except for the massive Silvercup project, which was heavily subsidized by the City for a single commercial use) indicates that the market also disagrees. As further evidence, the master plan for the Queens West project was substantially revised to substitute residential for commercial use.

The LICC's simplistic assumption is that the M1 portion of the site could be developed with 95,880 square feet of retail space renting at \$40 per square foot, which is the same rent as is projected for the ground floor of the residential building. As Mr. Pauls bluntly states in the Exhibit "B" attached hereto:

"The opposition fails to take into account several factors that make this scenario ridiculous."

Among these factors are the following:

- There is absolutely no evidence that the market would support almost 100,000 square feet of retail at this location;
- This amount of retail would require a two-level retail project with no loading, servicing or parking;
- Such retail would yield significantly lower rents than the ground floor retail located in the residential building;
- In a two-level retail building, the upper floor would rent for, at best, half the price of the ground floor;

- The construction cost of a retail project far exceeds that of an industrial development; and
- The operating costs associated with retail rentals are substantially higher than industrial use, since typical retail leases require the landlord to provide heat and base year taxes.

In addition, the submission claims that "There are many uses permitted in M1-4 zoning districts that are not industrial and would yield a much higher return. Such uses include bakeries, clothing stores, drug stores, ice cream shops, art galleries, theaters, banks, bowling alleys, hotels, offices and many others." Apparently, the opposition envisions a two-level retail mall with no parking and no highway access, with rents at \$40 per square foot. This clearly qualifies as "ridiculous."

"C" Finding

The opposition's arguments with respect to neighborhood character are unsupported by a shred of evidence or professional expertise. A detailed response by the project architect is attached as Exhibit "C"; a brief response follows.

Comparison with Equitable Building

Nothing better illustrates the cavalier disregard for the facts inherent in the LICC's arguments than comparison of the proposed project with the Equitable Building, which is notable for its role in the adoption of the 1916 Zoning Resolution. The Equitable Building is a 1.2 million square foot commercial building rising to a height of over 400' with no setback in a canyon-like setting on Lower Broadway in Manhattan. The building that is the subject of this application is a less than 180,000 square foot residential building with an overall height of 140' and a setback at 57' facing a one acre park.

Variance as Precedent

The opposition completely ignores prior submissions by the Applicant discussing why the proposed project, which seeks a variance under Section 72-20 of the Zoning Resolution, is not a precedent for other projects and does not violate the intent of the underlying zoning. It is fundamental that each variance is based on a unique set of facts and must meet the five findings set forth in Section 72-20 of the Zoning Resolution.

Design Changes

The opposition states as fact that loft-style apartments and more penthouse units would significantly increase the rate of return. If this were the case, it would be in the developer's interest to incorporate these features. However, the Applicant's marketing professionals have determined that the proposed apartment configurations are the most appropriate.

Parking

The opposition argues that no parking is required. The project includes accessory parking equal to approximately 50% of the market rate dwelling units. Members of the Community Board asked whether more parking be provided, so as to minimize on-street parking and traffic congestion in the neighborhood. The opposition's position on parking is sorely out of touch with the community and would reduce the marketability of the project.

Density

The opposition alleges, without backup, that the project "is by far the densest (including the Queens West shoreline development) residential development in Long Island City" and comparable to the Upper West and Upper East Sides in Manhattan. This is quite a remarkable conclusion, as the average FAR on the zoning lot is 5.3. Even if the R6A portion of the lot is analyzed separately, the residential FAR is approximately 8.0, which is substantially less than the 10-12 FAR permitted in high density residential districts. The comparison of this project with the Upper East and West Sides of Manhattan is akin to the earlier comparison with the Equitable Building -- grossly exaggerated and misleading.

Subways and Open Space

The opposition makes a feeble attempt to assert that this single project will overwhelm the capacity of the subways and substantially worsen open space conditions in the area. Subways and open space are among the impact areas that must be analyzed under City Environmental Quality Review ("CEQR"). An Environmental Assessment Statement ("EAS") was submitted by the Applicant in September, 2007 and revised in March and May 2008. Analysis of both areas was undertaken in accordance with the CEQR Technical Manual and no significant environmental impacts were identified.

Queens Council on the Arts

In yet another remarkable statement, the opposition concludes that providing space for the non-profit Queens Council on the Arts, including exhibition and performance as well as office space, is inappropriate. As discussed in prior submissions, the Queens Council assists hundreds of artists and groups in a burgeoning local arts scene and has the strong support of the Borough President and local artists and arts organizations (many of whom testified before the Board). The LICC appears to prefer doctor's offices.

"E" Finding

The opposition has not submitted any credible financial analysis in support of its conclusion that the proposed variance is not the minimum required for the project to yield a reasonable rate of return.

Conclusion

This submission by the Applicant is the last submission scheduled by the Board. The Applicant respectfully submits that the evidence overwhelmingly supports the five findings required under Section 72-20 of the Zoning Resolution and the hearing should be closed.

Very truly yours,



Howard Goldman

EXHIBITS

- "A" Fleming Lee Shue letter dated 8.8.08
- "B" Robert B. Pauls letter dated 8.4.08
- "C" Studio V Architects letter dated 8.6.08

cc: Helen Marshall, Queens Borough President
Eric Gioia, Councilmember
Joseph Conley, Chair, CB2 Queens
City Planning Commission
William P. Kelly, President, CUNY Graduate Center
William O'Connor, O'Connor Capital Partners
Douglas W. Otto, Esq.



Environmental Management & Consulting

August 8, 2008

Honorable Meenakshi Srinivasan
Chairperson
Board of Standards & Appeals
City of New York
40 Rector Street
New York, NY 10006

Subject: Response to CEA Letter dated July 31, 2008, Re: LIC/CUNY Project
Document Report, CEA No. 08033
5-11 47th Avenue
Long Island City, New York

Dear Chairperson Srinivasan:

Fleming-Lee Shue, Inc. (FLS), on behalf of O'Connor Associates (OCA) has reviewed the letter prepared by Carpenter Environmental Associates (CEA) in response to FLS' letter dated July 11, 2008. Many of the points raised in CEA's 7/31/08 letter reiterate those contained in their letter dated June 6, 2008, which were addressed in our 7/11/08 response. The following addresses several comments which have not been previously raised by CEA.

The proposed site use, mixed use residential/commercial in an urban setting would be more realistically served by applying "Track 2" criteria to the cleanup.

The proposed project includes graduate student housing, which should clearly be considered as a residential use. The assertion that Track 1 cleanups are limited to single family housing is incorrect; Track 1 has been the cleanup goal for several large residential developments in New York City and continues to be appropriate for a mixed use development with a residential component, particularly with low rise structures similar to those planned for the Site redevelopment.

The comment that a Track 2 cleanup is "substantially less expensive" is not, in our experience, true. In practice, the NYSDEC requirements for a Track 2 cleanup, particularly those which apply to a depth of 15 feet, are as stringent as those for Track 1. It should also be noted that, as cited in Part 375-6.5, the Agency can require that a Track 2 cleanup based on public health criteria also meet the more stringent protection of

groundwater soil cleanup objectives. As discussed in our 7/15/08 letter, there has been a shift in leadership within NYSDEC during the past year, and the Agency is becoming increasingly aggressive regarding the required level of cleanup for all sites within the BCP program. In our experience, clean-up objectives currently require meeting the protection of groundwater standards objectives which are similar to the Track 1 objectives.

Several additional assertions raised in CEA's 7/31/08 letter are addressed below:

The presence of acetone, 2-butanone, and methylene chloride is a result of laboratory contamination; therefore these contaminants can be eliminated from consideration; some results are designated with "J" qualifiers, and represent estimated concentrations, not a true concentration.

An assertion that a compound which is a common lab contaminant cannot be actually present is not supportable, particularly on a site with a lengthy and varied industrial history. In particular, the concentration of acetone in groundwater has been detected as high as 340 micrograms per liter ($\mu\text{g/L}$) (TW-15 - 02/21/08 and TW-RCRA-1 - 02/21/08). The New York State Department of Environmental Conservation (NYSDEC) Technical and Operational Guidance Series (TOGS) 1.1.1 Ambient Water Quality Standard and Guidance Value for Class GA Groundwater is 50 $\mu\text{g/L}$.

In soil samples, the concentration of acetone in soil has been detected as high as 2.6 milligrams per kilogram (mg/kg) (SB19 (7-8) - 02/19/08). The Part 375-6.8(a) Unrestricted Use Soil Cleanup Objective (UUSCO) for acetone is 0.05 mg/kg .

The presence of acetone impacts to the soil and groundwater generally correspond to sample locations on the western portion of the Site. This contaminant has been detected on a consistent basis during separate sampling events and in different soil and groundwater locations. The presence of this contaminant is also consistent with respect to historical uses of the site, including ink, paints & varnish manufacturing, cleaners and dyers, dry cleaning and spotting, metal casting, artist studios, and paint and lacquer manufacturing.

It should also be noted that a "J" qualifier denotes an analytical result that is below the detection limit of the specified analytical method, and, hence, must be estimated. Regardless of whether the result is estimated or actual, the contaminant is present in the sample media, at a level that enables estimation of a concentration value.

The presence of petroleum-related contamination in the smear zone indicates that the contamination may be a result of on-site migration of the contaminant from an offsite source.

The recent February and March 2008 data indicates that benzene, toluene, and ethylbenzene have been detected in groundwater at upgradient and downgradient locations at concentrations ranging from 20 to 530 ug/l , significantly above New York

State Class GA groundwater standards. It should also be noted that the SVOCs found in Site soils include naphthalene, a petroleum-related polycyclic aromatic hydrocarbon that is not a typical constituent of historic fill, which has been detected in soils at concentrations as high as 160 mg/kg. The assertion that petroleum-related contamination within the smear zone "may be" a result of off-site sources is speculative and selectively ignores the historic presence of gasoline underground storage tanks on the property.

CEA's comments also ignore the significant levels of free product which have been measured in wells throughout the Site at levels ranging up to several feet. The presence of free product, aside from indicating significant on-site petroleum contamination, will also be a significant factor impacting remediation costs.

Chlorinated Solvents

While not specifically raised in CEA's comments, chlorinated solvents have been detected onsite in groundwater in concentrations exceeding the Class GA groundwater standards. These compounds, which include materials used in historic operations and their breakdown products include tetrachloroethane, cis-1,2-dichloroethene, 1,3-dichloropropene, and vinyl chloride. 1,2-dichloroethane and cis-1,2-dichloroethene have also been detected in soils above the Track 1 soil cleanup objectives. As we have stated previously, these materials were used in historic on-site operations and are not components of historic fill.

Summary

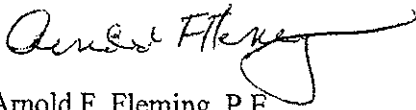
Attempting to characterize this property as a typical historic fill site is not supported by the history of the site, the results of remedial investigations, and our recent experience with the pertinent regulatory programs.

The types, distribution, and concentrations of contaminants on the Site indicate a property impacted by a lengthy history of industrial use. In addition to the widespread presence of free product, soil and groundwater is also impacted by petroleum-related contaminants and chlorinated solvents, both of which can be related to historic on-site operations. This information was considered by NYSDEC when they admitted the Site to the BCP, a remedial program with increasingly stringent eligibility requirements, including exclusion from the program if contamination is believed to be either urban fill or originating from off-site. By allowing this site into the BCP, the NYSDEC has made a determination that these contaminants originated from on-site industrial operations and were significant. Our most recent experience with the NYSDEC is that the remediation standards applied to BCP sites have a goal of meeting the Track 1 clean-up objectives unless physically or economically infeasible. The clean-up objective is not a discretionary decision of the applicant. As stated previously, the recent shift in leadership and focus within the Agency has resulted in increasingly rigorous cleanup requirements. FLS' assertions regarding the degree of remediation that will likely be required and the associated costs are grounded in day-to-day experience with the BCP program, including ongoing discussions with regulators at both the regional and headquarters level.

The attempt by CEA to minimize the seriousness of the impacts to the site's soil and groundwater and the NYSDEC's requirements to clean-up the remains from 150 years of industrial use shows a lack of experience with these issues at Long Island City and the requirements of the NYSDEC to perform complete clean-ups, as opposed to covering the problems up with buildings.

Respectfully Submitted,

Fleming-Lee Shue, Inc.

A handwritten signature in cursive script, appearing to read "Arnold Fleming". The signature is written in black ink and is positioned above the typed name.

Arnold F. Fleming, P.E.
President

ROBERT B. PAULS, LLC
REAL ESTATE & PLANNING CONSULTANTS

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August 4, 2008

Ms. Meenakshi Srinivasan, Chairperson
NYC Board of Standards and Appeals
40 Rector Street
New York NY 10006

Re: 5-11 47th Avenue
Cal No. 238-07BZ

Dear Chairperson Srinivasan and Commissioners:

The following is in response to a letter prepared by the opposition dated August 1, 2008. Specifically, the comments regarding the "B" finding (pages 4 & 5). The opposition alleges that the best way to look at the "as-of-right" development on the M1-4 portion of the site is to assume the development of 95,880 square feet of retail space. The opposition further alleges that if one used a \$40.00 per square foot rent (that used for the 6,000 square feet in the residential portion of the project) the returns would be substantial.

The opposition fails to take into account several factors that make this scenario ridiculous. First, this scenario would require a two-level retail project without any loading, servicing or parking on site. This is simply unmarketable at the size suggested. In fact, there is little proven market for this amount of retail space at this location.

Secondly, the opposition fails to take into account that if there were two levels, the rent for the second level (without loading, servicing or parking) would be at best, half of the street level space.

Thirdly, the opposition fails to point out that the construction cost of a retail project far exceeds that of an industrial development as well as the fact that the operating costs associated with retail rentals are substantially higher, since typical leases call for the landlord to provide heat and base year taxes.

Ms. Meenakshi Srinivasan, Chairperson
August 4, 2008
Page 2

For illustrative purposes we have prepared a pro forma indicating a one level retail project containing approximately 48,000 square feet on the M1-4 portion of the site. (Copy Attached) This would be in addition to the 6,000 square feet of retail space in the residential development. We have used the same \$40.00 per square foot rent, as it would all be street level retail, although it is likely that it would be less, given the amount of space developed or that the vacancy rate would exceed the 3% utilized in the pro forma.

We have also lowered the cap rate to account for the general attractiveness of retail space to investors and have recalculated the construction costs to account for the higher level of building finish required as well as the large amount of demising walls and plumbing necessary in a multi-tenanted retail project.

Given this more realistic approach, the "as-of-right" development would still produce a value that is still \$22 million short of the cost of development and therefore would not be viable.

We hope this addresses the issue alleged by the opposition and as always, we remain available for clarification or additional information.

Respectfully submitted,

Robert B. Pauls
Partner

Enclosures

Exhibit 1

Basic Development Assumptions

	As of Right Mixed Use
Site Area	66,838
Above Grade Building Area	163,480
Zoning Floor Area	153,700
FAR over Entire Site	2.30
Rentable/Saleable Area	
Retail Use (SF)	53,940
Residential Condo Apt Units (SF)	48,280
Community Facility - Dormitory Units (SF)	
Community Facility (QCA)	
# Parking Spaces	0
Construction Loan Rate	9.00%
Lease up Time - Months	8
Construction Loan Amt.	\$50,360,662
Site Value	\$24,019,890
Capitalization Rate	7.0%
Lease & Sales Rates - Sq. Ft.	
Retail Use (SF)	\$40.00
Residential Apt Units/SF	\$695.00
Community Facility-Dormitory Land/SF	\$0
Community Facility (QCA)	\$15.00
Net Parking/Month/Space	\$0.00
Commercial Vacancy Rate	3.0%
Base Constr. Costs/sf -Indust.	\$164.20
Base Constr. Costs/sf -Resid	\$288.22
Base Constr. Costs	\$35,227,948
Special Environmental Costs	\$10,168,000
M&O Expenses	\$2.50
Management	5%
Current Real Estate Taxes	\$150,892
New Real Estate Taxes	\$49,787

Exhibit 2

Pro Forma Analysis Summary

As of Right Mixed Use

Building Area (Sq. Ft.)		
FAR		2.30
Rentable Community Fac. (QCA) Area (SF)		0
Rentable Retail Area (SF)		53,940
Residential Area (SF)		48,280
Community Facility-Dormitory (SF)		0
Capital Investment Summary		
Site Value		\$24,019,890
Base Constr. Costs		\$35,227,948
Est. Soft Costs		\$12,276,057
Special Environmental Costs		\$10,168,000
Est. Total Dev. Costs		\$81,691,895
Rental Income and Expenses		
	Retail	\$2,157,600
	Community Facility (QCA)	\$0
	Annual Parking	\$0
Gross Rental Income		\$2,157,600
	Less Vacancy	(\$64,728)
Effective Rental Income		\$2,092,872
Less M&O Expenses		(\$134,850)
Management		(\$104,644)
Less Real Estate Taxes		(\$49,787)
Net Operating Income		\$1,803,592
Return on Investment		
Project Development Cost		\$81,691,895
	Less Residential Apt Sales	(\$33,554,600)
	Less Comm. Fac.-Dormitory Sale	\$0
	Less Capitalized Value of Pkg., ComFac, Comm'l Income	(\$25,765,597)
Est. Project Value/Profit		(\$22,371,698)
Annual Return As % of Cost		-14.9%

Exhibit 3

Development Cost Summary

As of Right Mixed Use

	Basis	
Land & Bldg Value		\$24,019,890
Base Constr. Costs		\$35,227,948
Est. Soft Costs		\$12,276,057
Special Environmental Costs		\$10,168,000
Est. Total Dev. Costs		\$81,691,895
Est. Const. Loan Amount		\$50,360,662
Est. Const. Period (Mo.)		14
Est. Soft Costs:		
Archit. & Engin. Fees	6.0%	\$2,113,677
Construction Management	3.0%	\$1,056,838
Inspections, Borings & Surveys		\$50,000
Dev. Legal Fees		\$75,000
Permits & Approvals		\$40,000
Accounting		\$20,000
Real Property Tax		\$276,635
Insurance	3%	\$1,056,838
Appraisal Fees		\$20,000
Title Insurance	0.3%	\$81,668
Con. Loan Int. Loan Rate@	9.00%	\$4,154,755
Con. Lender Fees	1.25%	\$629,508
Con. Lender Legal		\$35,000
Bank Inspect. Engin.		\$25,000
Residential Brokerage	6%	\$2,013,276
Commercial Brokerage	30%	\$627,862
Total Est. Soft Costs		\$12,276,057

5-11 47th Avenue
Development Cost Estimates
Based on Marshall & Swift Valuation Manual

	As of Right Industrial Use	Proposed Residential Use
Base Bldg Cost/SF *	\$110.63	\$199.77
Sprinklers	\$3.52	\$3.75
Cellar Parking Adj.		\$4.62
Cellar Retail Space		\$4.09
Add'l Elevator Adj		\$2.75
Grnd Flr Parking Adj		
 Base Cost/SF *	 \$114.15	 \$214.98
Building Height Adjustment	100%	105%
Façade/Shape Adjustment	100%	100%
Geographic Multiplier	137%	137%
Inflation Factor	105%	103%
 Total Cost/SF*	 \$164.20	 \$318.52

* Above grade building area.

STUDIO V

August 6, 2008

Hon. Meenakshi Srinivasan
New York City Board of Standards and Appeals
40 Rector Street
New York, NY 10006

Re: 238-07 BZ
5-11 47th Ave., LIC

Dear Chair Srinivasan:

As Architect for the 5-11 47th Avenue project proposed for Long Island City, I am writing in response to a letter submitted on August 1, 2008 on behalf of the "Long Island City Community" ("LICC"), prepared by Douglas W. Otto, Esq. and Thomas Paino.

This letter contains a series of misleading and erroneous characterizations of the design that I would like to clarify, as they relate to the "C" findings with respect to neighborhood character and our request for a variance.

For your convenience, I have outlined our response by topic below:

Light and Air:

The letter from the opposition states that the site for our proposed development is bounded by three narrow streets. However, the opposition fails to mention that directly across from the subject site on 5th Street is a public open space that is over 280 feet deep, with more than 410 feet between the face of the proposed project and the building on the opposite side of the park. This park is over one acre in size. There is significant precedent throughout New York City and Long Island City to encourage greater height and density along parks and open spaces, to minimize impacts on light and air.

On the two side streets, 46th Road and 47th Ave, we have proposed that the building mass be set back five feet from the street line. This massing effectively widens the sidewalk and increases the amount of light and air that would otherwise reach the street.

The proposed project is the only development that we are aware of in Long Island City, existing or proposed, that will widen the public view corridors connecting the upland community to the waterfront. These areas are designed to be planted with gardens and provided with stoops in the great tradition of New York townhouses and specifically references the historic character of Long Island City residential development.

In addition to the street setbacks and stoop gardens, open space is also provided on site in the form of a publicly accessible courtyard, second floor terraces for market-rate residences, a rear yard garden for the students, and private stoop gardens for faculty residences. Combined, these spaces make up an unusually large amount of high quality, diverse, and richly planted open space.

In specific response to the issue of light and air, Studio V Architecture has prepared very detailed shadow studies, previously submitted with the Environmental Assessment Statement prepared by

Urban, that the proposed project has no significant impact on light and air available to the neighborhood.

Directly across from the subject site is a public park and baseball field. The shadow studies show that the proposed project will only cast a minimal shadow on one corner of this park during the early morning hours around December 21st (the winter solstice). These illustrate that between the hours of 9am (sunrise) and 11am, a very small shadows will fall on one corner (perhaps one-sixth) of the park from the proposed building. From this we can draw the conclusion that the building will have a minimum impact on the park: it will cast a shadow for a baseball player in the far left outfield in the early morning of winter on the shortest day of the year.

The proposed on-site parking facility will help to eliminate parking on the surrounding streets. We note that the Community Board encouraged us to include parking within the development and suggested that even more might be beneficial. We have included all the parking that the project could economically support and that was appropriate for the marketing needs of the project.

Bulk and Height:

The proposed bulk and height of the project is in direct relation to the environmental and economical hardship necessitated by the contaminated conditions on-site. Studio V Architecture has taken great care to propose design strategies, precise massing, and architectural details that are clearly in excess of standard residential or mixed use developments in New York City and Long Island City, to make the proposed bulk and height appropriate and in context with the community.

The building massing indicates multiple set backs ranging from 1, 2, 4, 5, 6, 10, and 12 stories. As an example, on 47th Avenue the proposed massing sets back in at least six separate locations: a one-story arched opening to the courtyard, 2 story townhouse, 4 and 6 story student housing, 5, 10 and 13 story market rate residences. This rich mixture of heights and masses creates a varied and contextual streetscape, complimentary to the existing neighborhood fabric of townhomes, warehouses and apartment buildings. We are not aware of any other development, new or existing in Long Island City, that has included this level of articulation and care in its massing.

In addition, many of the new developments in the neighborhood feature large blank walls as a result of lot line conditions where windows are not permitted. Along 5th Street adjacent to our project, the existing developments at Queens West feature large open parking garages in the range of 6 to 8 stories, with open strip windows exposing visible automobiles, and large blank expanses of concrete walls that appear empty and desolate.

In contrast to these unfortunate development strategies, our proposed project will feature active frontages with residential windows on both street and lot lines. The effect when seen from the upland streets (intersection of Vernon and 47th Ave, or Vernon and 46th Road) will be articulated, windowed walls that step down towards the community with townhouse stoops at street level, set against 30+ story towers with 6 to 8 story parking garages at street level.

Previous drawings of the massing submitted by the opposition have already been reviewed with the Board and demonstrated to be grossly inaccurate with regard to how they have represent the design proposal. These inaccuracies include increasing and exaggerating the building's height by two to three stories, and completely eliminating from all views the existing and approved tall buildings that are immediately adjacent to our site.

At the last hearing, Studio V Architecture submitted extensive perspective drawings and views to show the project's proposed massing accurately from all possible viewpoints, including corrections to all of the opposition's drawings. We also included extensive new views from multiple points on each street on the upland community and different viewpoints. These drawings clearly demonstrated that the project's massing and height was appropriate and carefully considered relative to the surrounding context. The proposed design also provides a very careful and appropriate bridge between the existing community and context and the waterfront Queens West development.

Following that hearing and the submittal of our corrected drawings, the opposition has publicly published their incorrect and incomplete original drawings extensively on internet sites, including a detailed submission on "QueensCrap.com" stating falsely that their drawings are accurate and based on Studio V's architectural drawings.

Loft Style Apartments:

The opposition has suggested that loft-style apartment layouts will command greater per square foot sales, citing 5th Street Lofts and Arriss Lofts as examples. Increasing the size and floor to floor height of the proposed apartments would not be a financially viable solution. This suggestion is not supported by the developer, who has extensive residential development experience, nor the marketing community, which has made the opposite recommendations to us. The letter from the opposition includes no specific or detailed information or market comparables to back up their assertions.

The client, OCA LIC, as part of O'Connor Development, is one of the largest successful residential developers in New York City. As the developer of Manhattan House, we believe they are responsible for the largest single residential development in all of New York City at this time. From their extensive experience as residential developers, they have provided the program and approach to the residential building which was the basis for our designs and fully incorporated into our submission.

In addition, Studio V Architecture, at the client's request, has reviewed all aspects of the proposed unit mix and design with licensed real estate professionals from the Corcoran Realty Group. Corcoran Realty Group is recognized throughout New York City as one of the foremost professional residential brokers with extensive experience throughout New York City and special expertise in Queens and Long Island City. These professionals have reviewed and approved the proposed residential program, including the size and number of units and overall unit mix.

Setbacks:

The opposition has suggested that multiple setbacks be created to increase per square foot sales. Close examination of the proposed massing will show that multiple setbacks at the top 3 stories of the building, on both 47th Ave and 46th Road, have already been made and square foot prices for these floors have already been factored into the economic vitality of the project. Our proposed designs feature a greater number of setbacks and greater articulation of overall massing than the opposition has cited.

Of equal concern for setbacks is the visual impact of the project from the upland community. Setbacks are made to reduce the appearance of the massing and step down towards the upland area. These were again illustrated in extensive perspective views that accurately portray the project and show its sensitive response to the surrounding context and community.

Parking:

A 90+ car on-site parking facility has been planned as part of the proposed project. Due to the height of the water table in the area, it would not be economically feasible to build a parking facility completely below grade level. Instead, the facility is planned for half levels below and above grade. This is a thoughtful and economical architectural response to the existing conditions and requirements, confirmed by marketing professionals and the Community Board. The opposition's assertion that this makes the project more difficult is simply incorrect.

It is clear that parking is important to the development and neighborhood. Our proposed development will not add to existing street congestion where parking is already limited. All parking will be located on the interior of the proposed development, such that the only visible indication of its presence on the street will be the entrance and exit, which have been isolated from one another to reduce the impact on the streetscape. The number and length of the curb cuts is in keeping with good architectural and urban design principals.

This strategy is very different from neighboring developments that have chosen to erect 6 to 8 story open-structured garages. The design of our proposed facility is a more sensitive, urban approach that clearly favors the pedestrian over the car, providing active frontages with stoops and gardens while providing for the needs of the car and preventing congestion.

Indeed, we believe it is very clear that the opposition truly does not represent the will of the Long Island Community with regard to parking. While the opposition is posturing to represent the local community, we strongly believe that they would find little or no support for eliminating all off street parking.

LEED and Sustainable Design:

The proposed project is designed to meet all the criteria from USGBC to be LEED Gold Certified. Our firm, Studio V Architecture, is at the forefront of green and sustainable practices, and the principal and owner of the firm, Jay Valgora, is an accredited LEED architectural professional. More than 60% of the firm's work is in sustainable architecture and master planning.

Sustainable design practices are crucial to the future of New York City. Neighborhoods like Hunter's Point, where density is increasing, are particularly important locations to incorporate high quality sustainable design such as we are proposing. This neighborhood is also specifically cited by the Mayor's PlaNYC 2030 study as an appropriate neighborhood for greater density and sustainable design practices, exactly as we have proposed.

The proposed project will become an example of smart design for future developments to follow. To the best of our knowledge, this is the only currently planned LEED Gold residential development underway or planned in Long Island City at this time. To achieve Gold status, sustainable measures will need to be taken with all aspects of the design from material selection to water resource management to passive heating and cooling. The project is well on the way to meeting this very ambitious goal.

Density:

The proposed project density is related to the economic and environmental hardships created by a heavily contaminated site. When considered in relation to the surrounding context, the density of the proposed project is justified.

To the west and north of our proposed project are the Queens West development and the proposed Anable Basin master plan that are part of the waterfront portion of the neighborhood. Queens West, in sharp contrast to the upland area, features 20 to 40 story residential towers on 8 to 10 story mid-rise blocks, with 6 to 8 story open air parking facilities facing the upland areas along 5th Street. It is readily apparent from seeing the completed buildings that the orientation for the entire development is towards the river and views of Manhattan. Unfortunately, those projects have treated the Hunter's Point community as the "backside" of Queens West.

Our project is unique in the way that it is located between the waterfront development and the upland communities. We have shown that our proposed design, with active street frontages, carefully stepped massing, fully articulated facades on all sides, wider view corridors to the water, internalized parking, and a diverse and appropriately sculpted massing, will create a transition from the waterfront development to the fine grain of the Hinters Point community.

In their statements and drawings, the opposition has repeatedly attempted to ignore the very presence and fact of the Queens West buildings. These buildings and their occupants cannot and should not be ignored. Instead, the proposed project attempts to thoughtfully mediate the differences between upland and waterfront by creating careful transitions in scale and articulations in massing.

Community Facility:

The proposed project supports an existing and thriving arts community that is an essential part of the Long Island City neighborhood by providing space for the Queens Council on the Arts.

The QCA's programmatic needs extend beyond common office space as the opposition has suggested. The QCA is foremost a granting organization; however their interests and programs include event planning, teaching, exhibitions, and support for local artists. Our design includes a 75 person multi-purpose space with an adjoining outdoor area, galleries for displaying art and classrooms for teaching art, as well as the ability to hold arts related performances and events. The public components of the QCA community facility have been carefully incorporated into every aspect of the design.

The QCA will become a major contributor of arts and culture in Long Island City. Currently, they are sponsoring a weekly music festival at Gantry Park and along with the project architects plan to provide local artists with the opportunity to design installations in the public spaces of the proposed

project. The QCA is more than offices; they are a group committed to the perpetuation of arts and culture in the Borough of Queens and in particular LIC.

Open Space:

A tradition of publicly accessible open spaces for the arts is a significant feature of Long Island City culture and history. Places like the Noguchi garden, P.S. 1, and Gantry Park are a few examples.

The courtyard space is envisioned as a similar space, capable of being programmed by the QCA, CUNY or the community with art related functions. This courtyard will be accessible to the public during daylight hours, and offer a welcome green respite for the neighborhood and a space specifically designed and programmed to provide performance space, exhibitions, community events, art shows, and other arts related programs. We are not aware of any other development in Long Island City that has included a community facility and open space of this quality and character.

Subways:

The subject site is located within proximity of two subway lines and is only a short distance outside midtown Manhattan. The project team recognizes the need for public transportation over private automobiles.

To provide balance, the proposed parking facility is small in comparison to the others in the neighborhood, and provides for half the number market-rate residences. It is appropriately scaled to the development, as confirmed by the real estate and marketing professionals advising the team. We believe it would be highly irresponsible to not provide any parking as the number of new residences in the neighborhood continues to increase.

The opposition's argument in this regard is inherently contradictory: they ask to eliminate all parking, and then state that public transportation is overcrowded. It's not possible to have it both ways. Our design proposal offers a clear balance and an appropriate response to both issues.

Quality Housing:

The proposed project meets the vast majority of the requirements of the Quality Housing program. Although the proposed design does not meet every standard with regard to height and massing, it addresses each of these issues with great care and the waivers requested are minimal. The issues of height and mass have been dealt with extensively in the previous comments.

Two specific waivers are noted by the opposition. One is the size of the proposed courtyard, and the second is the space between windows.

With regard to the courtyard, it is our opinion that the project meets the full requirements for an outer court relative to size and proportion as required. Our courtyard qualifies as a "wide outer court" and the proposed design would meet the requirements of zoning. The waiver has been asked as a precaution as the preliminary design must be developed in full and reviewed by DOB. In any event, the requested waiver is small – only 10 feet in width.

With regard to spacing for windows, Quality Housing requires that the space between windows for two buildings on a single zoning lot should be 60 feet, or 50 feet from a window to a wall. At one small area of the project, on either side of the courtyard, we are showing windows that may come within 50 feet of one another at a few limited points. Because the composition of these windows is asymmetrical along the wall relative to one another, we believe that we could meet the 50 foot rule for all of these windows relative to their distance to the wall opposite. However, because the design is in a preliminary stage, we have requested the variance even though we are already extremely close. The waiver requested is in any event quite minimal, and applies to one very small part of the project.

The project will meet the standards of quality that are at the core of the program. These include compatibility with the existing neighborhood character, on-site recreational spaces, and secure, safe residences.

Consistency with the neighborhood character is achieved through active, pedestrian oriented street frontages. On-site recreational spaces include a publicly accessible courtyard that can also act as an outdoor event space for either the Queens Council on the Arts, CUNY Graduate Center of Hunter's

Point community. Other spaces include a second story garden terrace and roof deck for the market-rate residences, as well as private balconies and terraces. Also, for the students, there is a private rear yard garden and for the faculty private stoop gardens.

Other specific quality housing standards will be incorporated, such as street plantings and sidewalk improvements, minimum unit sizes, double-glazed windows, refuse disposal, laundry in each apartment, laundry rooms for students and multi-elevator cores.

We must take strong exception the opposition's statement that the design will be sub-standard, when in fact, we believe it will be the highest quality residential development yet to be built in Long Island City; offering a highly articulated and distinctive massing, the highest quality materials and architectural details, extensive public open spaces and gardens, and a unique community facility and related public space that is a reflection of the character of this special neighborhood.

Hunter's Point Zoning:

The project team is in favor of the 2004 rezoning and its attempts at controlling the scale and mixed-use character of the neighborhood. The opposition makes no mention of the fact that the majority of the subject site is outside the rezoned area. The portion that is within the area is heavily contaminated. The subject land is unique in that it constitutes an isolated "island" of manufacturing surrounded by residential development to the north and west along the water and to the south and east in the rezoned upland district. It is made even more unique by the heavy contaminates and federal deed restriction, conditions that could keep this property from becoming anything more than an undeveloped, overly contaminated plot in the center of a growing residential community and directly across from a baseball field.

In essence, our proposal is to take a heavily contaminated site and replace it with a community of graduate scholars and teachers, the highest quality residential development, and a significant new community arts facility.

We appreciate your review of these important points and the opportunity to correct the many misrepresentations regarding the design of the project and its relationship to the context of this neighborhood. We will of course be very glad to provide any additional information that you or the Board may require.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Valgora", with a long horizontal flourish extending to the right.

Jay Valgora AIA, LEED AP
Principal