



**Greenwich
Village
Society for
Historic
Preservation**

232 East 11th Street
New York, New York 10003

(212) 475-9585
fax: (212) 475-9582
www.gvshp.org

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August 8, 2007

Hon. Christopher Santulli
Manhattan Borough Commissioner
NYC Department of Buildings
280 Broadway
New York, NY 10007

**Re: Department of Buildings' Evaluation of Zoning Conformance of
Billboards at 352 W. 13th Street, the Hotel Gansevoort**

Dear Commissioner Santulli,

I write to follow up on a recent meeting with Deputy Borough Commissioner Max Lee and other members of the Department of Buildings staff regarding the lack of Department action in response to complaints about the zoning non-conformance of billboards at the above-referenced premises. As you know, these billboards have sparked considerable outrage from neighboring residents and businesses, and the Greenwich Village Society for Historic Preservation has consistently asked the Department to enforce Section 42-562 of the zoning text as it applies to these signs, without receiving a formal response as to why the Department has not enforcing this provision in this case.

In response to this, in the recent meeting Deputy Borough Commissioner Lee explained that in spite of the fact that the zoning text quite clearly and simply states that "within 500 feet of the boundary of a Residence District or Commercial District, except C7 or C8 districts, any illuminated portion of any signs shall face at an angle of more than 90 degrees away from such boundary line," the Department does not believe that this provision applies in this case. It is undeniable that this sign is illuminated, is within 500 feet of the boundary of the nearby C6-2A district, and that it faces it at considerably less than 90 degrees. However, as I understand Deputy Borough Commissioner Lee's explanation, it is the Department's view that in spite of what the zoning text says, it was "not intended" to apply in these circumstances, and that the Department interprets the zoning text to treat the neighboring C1-6 and C6-2A districts as "one district," thus making the boundary line between them inapplicable. I was also told that the Department considers any two contiguous commercial districts as one when interpreting the zoning text.

This explanation seems at best arbitrary and inconsistent with other actions of the Department, and at worst quite dangerous and disturbing in its implications if such logic were carried over into other Department rulings. First, I must say that the Department regularly has told my organization and countless others that its power is limited to enforcing the zoning text as written, regardless of what one argues may or may not have been the intent of the text when adopted. There are innumerable cases where my organization, and many others, have brought cases to the Department that clearly showed a violation of what the zoning text was seemingly intended to prevent, only to be told by the Department that the text as written was not expressly prohibitive in that regard and therefore the

Department had no grounds to act. This would seem entirely inconsistent with Deputy Commissioner Lee's explanation of the Department's actions in this case, where thus far it would seem that the Department is concluding that it has the power to take an action – in this case to approve a billboard – in spite of the text's explicit prohibition of such a sign at this location, based upon its interpretation of what the text "meant to do," as compared to what it actually says.

Additionally, the notion that the zoning text implicitly views contiguous zoning districts of the same category – commercial, residential, or manufacturing – as one district, as Mr. Lee explained, would seem to fly in the face of every other aspect of the way the zoning text works. Why would we have different zoning districts, such as C1-6 and C6-2A, if the text considers them one district? This explanation seems especially suspect in this case where the text explicitly exempts C7 and C8 districts from the regulation, clearly indicating that different commercial districts are considered as different districts. Carried through to its logical course, would this not require DOB to consider R6 districts the same district as a contiguous R9X district, or M1-5 districts the same district as a contiguous M2-4 district? To do so would clearly wreak havoc with our entire system of zoning and planning.

I thus strongly urge the Department to reconsider this interpretation and to enforce the provisions of Section 42-562 as they regard the billboard at 352 West 13th Street, which would require it be removed, turned substantially, or have its illumination removed. I request that the Department respond to this request in writing with a clear explanation of its position.

Sincerely,



Andrew Berman
Executive Director

Cc: Department of Building Commissioner Patricia Lancaster
City Planning Chair Amanda Burden
City Council Speaker Christine Quinn
Manhattan Borough President Scott Stringer
Congressman Jerrold Nadler
State Senator Tom Duane
Assemblymember Deborah Glick
Community Board #2, Manhattan
Municipal Art Society
Chelsea-Village Partnership
Horatio Street Association
345 West 13th Street Board and residents
Meatpacking district businesses