



DANIEL O'DONNELL
Member of Assembly
69TH Assembly District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Subcommittee on
Criminal Procedure

COMMITTEES
Codes
Education
Environmental Conservation
Judiciary
Oversight, Analysis & Investigation
Tourism

TESTIMONY SUBMITTED TO THE NEW YORK CITY
BOARD OF STANDARDS AND APPEALS

CONCERNING 808 COLUMBUS AVENUE
BSA CALENDAR NUMBER 149-08 A

DANIEL O'DONNELL
NEW YORK STATE ASSEMBLY MEMBER
69TH DISTRICT

TUESDAY, DECEMBER 16, 2008

Good morning. My name is Daniel O'Donnell and I am a member of the New York State Assembly, 69th District, representing residents of Morningside Heights, West Harlem, the Upper West Side, and Manhattan Valley. I testify today in support of the appeal which asks the Board of Standards and Appeals to reject findings issued by the Department of Buildings.

808 Columbus Avenue is currently being built on the grounds of Park West Village, a planned community and urban renewal project constructed in the late 1950s and early 1960s. Sited on land acquired by the use of eminent domain, Park West Village provided affordable housing with amenities intended to improve the residents' quality of life. The amenities included landscaped grounds, recreational facilities, and plenty of air, light and open space. Since its creation, Park West Village has remained dynamic and diverse. I believe strongly that development on this site must respect the vibrant history of this superblock and its neighbors.

Let me specifically address the "reconsideration" of open space requirements issued by the Department of Buildings. DOB's interpretation has allowed the developers to include "open space" located on the roof of 808 Columbus Avenue to count towards requirements under New York City zoning law. This single re-interpretation has allowed the developer to increase the project's density and, as a result, reap a financial benefit in the millions of dollars.

Zoning Resolution § 12-10 defines open space as "accessible to and usable by all persons occupying a dwelling unit... on the zoning lot." This definition does not leave room for interpretation. While DOB then reads Zoning Resolutions § 23-14 and § 23-142 in the most liberal sense possible by focusing on the term "any building", I would argue that such a reading causes harm to the rest of the buildings on the zoning lot. This superblock bounded by Columbus and Amsterdam Avenues and West 100th and West 97th Streets has always been considered as one unit for planning purposes, and that history should compel the Board of Standards and Appeals to continue to do so. To parse

New York City Board Of Standards And Appeals
RE: BSA Calendar Number 149-08 A; 808 Columbus Avenue
Tuesday, December 16, 2008
Page 2 of 2

the definition and allocation of open space is detrimental to the larger whole and should be considered a theft of amenities to the development's neighbors.

In the early 1960s, zoning regulations were enacted which traded additional floor area for public amenities including the creation of open space. The original intent was to incentivize the *creation* of open space. The common, and still prevailing, perception is that the creation and preservation of accessible open space is a net positive to the immediate community and to the city as a whole.

In this case, the project results in a net reduction of open space. The developers are building on a site that was largely open space to begin with and freely admit that a significant portion of the "open space" created will be accessible only to residents of the new building. Allowing DOB's "reconsideration" to stand undercuts the original intent of the zoning regulations.

DOB's decision introduces the dangerous concept of open space gentrification by designating a portion of a zoning lot's open space as "exclusive" to certain residents depending on their ability to afford the newest and higher-rent housing.

Long-term residents of this superblock will have lost an important amenity and "new" open space will be unavailable to them. I encourage the Board of Standards and Appeals to reject DOB's interpretation of open space in this case. I thank the Board for its time and appreciate the opportunity to testify today on a matter of such importance.