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1059 Third Avenue

5/14/2019

1059 Third Avenue (between E. 62nd and 63rd) is nearly done

- Yet, it had errors that required a new zoning approval
- This opened a new challenge period



Located between 62nd and 63rd Street on the east side of Third Ave, it rises to 467 feet





A Zoning Challenge prepared for Friends was filed in April

Totaling 84 pages, it is the most extensive challenge I've ever filed and it covered:

- 1. Building is too large
- 2. Interior portion of the lot requires a rear yard
- 3. Tower coverage is calculated incorrectly, so the building has too little floor area under 150 feet
- 4. Substantial errors and inconsistent information found throughout all approved materials

I'm going to focus on item 1: The building is too large

There are four things making the building too large:

- A. Gross floor area is shown incorrectly on every floor over 18
- B. Zoning floor area deductions do not match the size of the deducted areas
- C. The applicant is taking a deduction for an MTA easement in Lot 45
- D. The applicant is taking Quality Housing deductions

RED is a measurement or representation issue that are most serious ORANGE is an obvious error, but could be an honest mistake GREEN is an issue of interpretation

But first, building plans have different "series"

Each series describes a different element of a building, like architecture, mechanical or zoning. They look different, but they are supposed to describe the same building



19th Fl.

This part of the Z-series shows areas that are deducted from zoning floor area; the so-called "no counts"



The letters in the plan correspond to the letter in the table, which shows the size of the deduction



Look at this number

1. But the numbers don't match



It is the product of 50 feet and 63.79 feet





But this is the Z-series. The architectural plans are more detailed

So we measured the building in the architectural plans. It's even bigger . . .

Zoning Series 1059 Third Ave Architectural Series 1059 Third Ave



Zoning GFA: 3,189.73 SF

19th Fl.

Architectural Plans GFA: **3,542.95 SF** 68.80' x 50' (Architectural Plan Dimensions)

63.79' x 50' (Zoning Table Numbers) 66.75' x 50' (Zoning Drawing Dimensions)

This floor is 353 SF larger than claimed in the calculations

In fact, every floor in the upper portion of the building is misrepresented

This adds about 4,000 SF to the building, all in the tower portion

		GFA		
		Architectural		
Floor	Zoning Series	Plans	Difference	%
1	5250	5,250	0	0%
2	4850	4,850	0	0%
3	4850	4,850	0	0%
4	4850	4,850	0	0%
5	4050	4,050	0	0%
6	4350	4,350	0	0%
7	4024.44	4,018.75	-5.69	0%
8	4350	4,350	0	0%
9	4024.44	4,018.75	-5.69	0%
10	4350	4,350	0	0%
11	4032.44	4,018.75	-13.69	0%
12	4350	4,350	0	0%
13	3887.07	3,879.17	-7.90	0%
14	4350	4,350	0	0%
15	3887.07	3,879.17	-7.90	0%
16	4350	4,350	0	0%
17	3887.07	3,879.17	-7.90	0%
17M	4314.68	4,313.67	-1.01	0%
18	3652	3,665.67	13.67	0%
19	3189.73	3,542.95	353.22	11%
20	3619.93	3,967.70	347.77	10%
21	3289.94	3,626.00	336.06	10%
22	3619.93	3,969.19	349.26	10%
23	3289.94	3,625.98	336.04	10%
24	3686.25	4,094.34	408.09	11%
25	3686.25	4,094.34	408.09	11%
26	3686.25	4,094.34	408.09	11%
27	3686.25	4,094.34	408.09	11%
28	3293.48	3,451.92	158.44	5%
29	2973.04	3,154.61	181.57	6%
30	2122.08	2,253.54	131.46	6%
Bulkhead	1601.64	1,810.48	208.84	13%
		Added GFA	4,035.02	

2. But why stop there? Look at this balcony



When we measure the plans, we show it at about 191 SF



The applicant claims a deduction of:

Balcony	22.07 x	12.82 =	282.88 SF

Mismeasurement of 1 balcony adds nearly 100 SF to building

So we systematically went through every floor



23rd Fl.

Referencing the deductions in Z-series with the spaces in A-





Again . . .



24[™] FI.

Again and again . . .



Again and again and again . . .



Again and again and again . . .



We then summed the deductions by source and compared them

- Every floor under 12 understates its deductions
- Every floor over 12 overstates its deductions
- This is a net gain of about 2,000 SF
- But why the distribution? Thoughts?

Total Floor Ar	ea Deductions	Taken	
	From Z-Series	From A-Series	
Floor	120.10	ivieasurements	
6	128.18	203.92	-75.74
/	141.97	208.28	-00.29
8	128.18	203.92	-75.74
9	141.97	208.28	-00.29
10	128.18	203.92	-75.74
11	136.67	208.26	-71.59
12	500.07	258.22	112.05
13	511.62	397.07	113.95
14	366.07	258.22	107.85
15	511.62	397.67	113.95
16	366.07	258.22	107.85
17	511.62	397.67	113.95
18	322.80	204.53	118.27
19	638.14	492.41	145.73
20	493.54	303.80	189.74
21	794.30	573.06	221.24
22	493.54	302.11	191.43
23	729.24	490.51	238.73
24	510.94	371.24	139.70
25 - 27	1,545.42	1,135.29	410.13
28	277.04	179.36	97.68
29	415.88	391.42	24.46
30	918.15	841.62	76.53
Total all floors	10,577.21	8,489.56	2,087.65

The 12th floor is where the building is wholly above 150 feet

59.25% of the floor area needs to be under 150 feet

It is no accident that deductions are understated below 150 feet: they need floor area there!

This is a smoking gun: this wasn't an accident

	Total Floor Ar			
Ļ		From Z-Series	From A-Series	
ee e	Floor	Table (SF)	Measurements	Difference
С Г	6	128.18	203.92	-75.74
L5(7	141.97	208.26	-66.29
2	8	128.18	203.92	-75.74
0	9	141.97	208.26	-66.29
Be	10	128.18	203.92	-75.74
_	11	136.67	208.26	-71.59
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1				
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3. They've deducted MTA floor area in the air rights parcel

The site is merged with an apartment house to the north. The MTA took part of that site and rebuilt floor area



Pre-MTA

Post-MTA

Claims ZR 95-00 allows the deduction of floor area used by the MTA

But 95-00 is the section that governs the Special Transit Land Use District, or TA

The site is not in the TA Special District, therefore <u>95-00 DOES NOT APPLY</u>



4. Quality Housing deductions?

This district allows the Quality Housing (QH) option

QH buildings get floor area deductions not available to towers in exchange for the Quality Housing building form

1059 Third is a tower but it's taking QH deductions

How?



Claims that ZR 77-40 requires Quality Housing standards & deductions

77-40

For #buildings developed# or #enlarged# on #zoning lots# in which a <u>district boundary divides</u> the #building# such that the Quality Housing Program applies in one portion of the #building# but not the other, [parts of the Quality Housing program] shall apply to the entire #building# or #zoning lot#

The zoning lot is 5 feet inside the R8B district, and the first floor extends into that district. This district requires the QH program



This interpretation of 77-40 means QH benefits accrue to many UES towers, but without the form

If true, the QH option is meaningless in any split lot district with a QH requirement; developers get benefits without paying program costs

The legislature would not have made a law that was meaningless. It's an absurd result of a bad interpretation

As a result, it cannot be a proper interpretation

It also incentivizes every developer on the avenues to increase their zoning lot at least 1 inch into the R8B to get quality housing benefits for their tower

When we add it all up:

		SF Moved from Tower to	Per	r SF retail	Re	tail Value of
Issue	SF Created	Base	value		SF	
1.a Gross Floor Area Mismatch	4,035.02		\$	3,000	\$	12,105,060
1.b Misrepresented Deductions	2,087.65		\$	3,000	\$	6,262,950
1.c MTA Easement	1,583.00		\$	3,000	\$	4,749,000
1.d Quality Housing Deductions	2,157.00		\$	3,000	\$	6,471,000
3 Tower coverage/ FA under 150 feet		4,277.70	\$	1,500	\$	6,416,550
Total	9,862.67	4,277.70			\$	36,004,560

We get nearly 10,000 SF created, and we get over 4,000 SF in the tower that has to be put into the base, with a market value of about \$36,000,000



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