



July 19, 2016

New York City Planning Commission
120 Broadway
New York, NY 10271

Dear Chair Weisbrod and Members of the City Planning Commission:

We write having just completed a review of the New York City Department of Investigation's "Examination of the City's Removal of the Deed Restriction 45 Rivington Street in Manhattan" (the "DOI Report").

Since these matters were first brought to light, we have thought that resolving the issues raised by the Rivington House episode would need to go further than administrative adoption of a more formal process for lifting deed restrictions on formerly city-owned property. In the wake of the Rivington House deed restriction removal, we proposed legislation to create a searchable database of properties where the City imposed a restriction and to codify requirements for a public and transparent process for the lifting or modification of those restrictions.

We still believe both these steps are necessary, but we no longer believe they are sufficient.

For that reason, we request that the City Planning Commission act pursuant to City Charter Section 197-c(12) to propose that the modification or removal of deed restrictions imposed on property formerly owned by the City be subject to the Uniform Land Use Review Procedure ("ULURP"). This section of the Charter provides that the City Council may do this by enacting a local law upon recommendation of the City Planning Commission. This would subject deed restriction changes to ULURP, the city's gold standard of public review.

As we are all painfully aware, the removal of the Rivington House deed restrictions allowed that property – previously restricted to use as a not-for-profit healthcare facility – to be sold for development as luxury condominiums, without any input from, or meaningful notice to, local elected officials and the community. Since this occurred, we have been extremely concerned about the lack of a consistent process for (1) reviewing and (2) deciding whether to alter or remove, deed restrictions, placed on property once owned by the City of New York.

The DOI Report is troubling in its portrayal of the lack of transparency and accountability that are the hallmarks of the current process and that resulted in the lifting of the Rivington House restrictions. Both of these problems could be addressed by the creation of a public process. However, the problems appear to have gone deeper.

The DOI Report reveals that the Department of Citywide Administrative Services (DCAS), essentially the City's facilities and property manager, was responsible for crafting a "Land Use Justification Memo" for the lifting of the deed restrictions (DOI Report at 11). Land use review is a function that we believe should be performed in conjunction with the City Planning Commission.

The City already has a process for determining land use planning that involves the Department of City Planning and the City Planning Commission, public review by the Community and local officials, and final action by the City Council, all within a formal, tried-and-true, legally sound procedure. That process is called the Uniform Land Use Review Procedure, or "ULURP."

In fact, the lifting of some deed restrictions – those that were placed on property through the ULURP process – is subject to change only through the ULURP process. Yet, deed restrictions that for whatever reason were placed administratively on property years or even decades ago avoid public review under today's rules – with disastrous consequences, as we've seen at Rivington House. There is no reason to treat the same types of restrictions designed for the benefit of the public so differently; indeed, by invoking section 197-c(12) of the Charter, properties with deed restrictions would receive identical treatment, regardless of the process by which that restriction was placed.

Section 197-c outlines the City's ULURP process and lists the types of actions subject to ULURP – but the Charter also makes explicit that this list need not be exhaustive. Paragraph 12 of subdivision (a) in that section states, "[s]uch other matters involving the use, development or improvement of property as are proposed by the city planning commission and enacted by the council pursuant to local law" may be made subject to ULURP.

We strongly urge you to make such a proposal to the City Council and stand ready to support you in any way we can.

Sincerely,



Gale A. Brewer
Manhattan Borough President



Margaret S. Chin
City Council Member, District 1

cc: Hon. Melissa Mark-Viverito, Speaker
Hon. David Greenfield, Chair, Land Use Committee