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Gale A. Brewer, Borough President

August 16, 2016

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: Application No. N 160254 ZRM – Theater Subdistrict Fund Text Amendment

Dear Chair Weisbrod:

I write in regard to the application by the Department of City Planning (DCP) for a text amendment to Section 81-744 of the New York City Zoning Resolution (ZR) to modify the contribution rate into the Theater Subdistrict Fund.

The proposed text amendment would establish a new methodology for calculating the contribution rate that is based on the actual value of the development rights rather than the assessed property values. This is meant to align the rate more closely with the original intent of the 1998 legislation, which was to ensure that the contribution amounted to approximately 20 percent of the value of the development rights. Currently, the contribution amount expressed as a percentage falls far below 20 percent. The proposed text amendment would also make a certification for a transfer of development rights subject to the Chairperson instead of approval by the City Planning Commission (CPC).

At its Full Board meeting on June 1, 2016, Manhattan Community Board 4 (CB4) voted to deny the text amendment unless two conditions were satisfied. First, development rights transfers should remain subject to a CPC vote and not relegated to the ministerial function of the Chairperson. Second, the text should be revised to ensure that a portion of the Theater Subdistrict Fund is allocated to smaller nonprofit theater organizations, with budgets of \$250,000 or less, especially within Manhattan Community District 4.

At its Full Board meeting on May 12, 2016, Manhattan Community Board 5 (CB5) voted to approve the text amendment conditional upon the addition of the chair of Manhattan Community Board Five to the Theater Subdistrict Council. CB5 also expressed the desire for development rights transfers to remain a Commission Certification.

At the Manhattan Borough Board meeting on June 16, 2016, a representative from the Shubert Organization spoke out against the text amendment on behalf of the theaters in the subdistrict.

In addition to their disapproval of the proposed increase in the contribution amount, they expressed strong opposition to the implementation of a sale price floor, which they believe to be a needless constraint that does not account for the dynamism of the real estate market. The theater groups had not spoken in front of the Community Boards. Given the issues they raised, there was no vote on this item at Borough Board.

I agree with both Community Boards 4 and 5 in supporting the adjustment of the contribution methodology while opposing the change from a CPC Certification to a Chairperson Certification. While there are other floor area transfer mechanisms in the ZR treated as ministerial actions, experience has shown me the importance of a community board referral and a public vote on these matters. Manhattan already bears the consequences of non-public as of right zoning lot mergers and the floor area massing those transfers bring and I am uncomfortable with adding to that universe. I also recognize the concern of the theater groups over the price floor and the three to five year adjustment period for the assessed value of properties within the Theater Subdistrict. In cases where the real estate market moves faster than the adjustment of values, I believe there should be a mechanism that can safeguard the viability of development rights transfers.

My office has been in conversation with the Community Boards and DCP regarding the possibility of establishing a mechanism by which the theater could request an assessment. This assessment would be conducted by the usual City-approved assessor, and would be paid for by the theater. We have also discussed, as per CB4's recommendation, a way forward for the Fund to benefit smaller nonprofit organizations in the theater industry. It is our understanding that DCP is in the process of filing an A-modification that addresses these issues.

In light of this, I recommend **approval** of N 160254 ZRM **with the conditions** that the review of transfer of development rights remain a Commission Certification, that there is a mechanism that allows the theaters to request assessment and readjustment of the floor price, and that steps be undertaken to determine how the Fund can better benefit smaller nonprofit organizations working in the area's theater industry.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer