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**TESTIMONY OF STATE SENATOR BRAD HOYLMAN BEFORE
THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS REGARDING
THE REQUEST FOR A VARIANCE AT 515 EAST 5TH STREET IN MANHATTAN
CALENDAR #245-12-A**

November 25, 2014

Thank you for the opportunity to submit testimony today regarding the appeal by the owner of 515 East 5th Street in Manhattan requesting a variance from several requirements of the New York State Multiple Dwelling Law (Cal. No. 245-12-A). The owner's decision almost a decade ago to construct two additional floors, the sixth and seventh, in violation of local zoning and their continued refusal to bring the building up to code does not warrant an allowance by the New York City Board of Standards and Appeals ("BSA"). As such, I strongly urge you to reject this application.

At the previous hearing on this variance on September 16, the BSA adjourned the decision to November 25 and ordered the owner to remove the seventh floor penthouse by November 18 as a temporary compromise. The BSA then offered to help facilitate the owner's interaction with the Department of Buildings ("DOB") in order to ensure they received the necessary demolition permits.

To date, neither of the illegal floors have been removed nor are they in the process of being removed. While in their November 18 submission the owner cites difficulty in obtaining DOB permits that would allow for the removal of the seventh floor and the construction of a roof over the sixth, it is a problem of their own making. Both floors were constructed illegally, and I understand that DOB would have no objection to issuing permits to demolish both illegal floors. However, DOB may find it problematic to issue permits for the reconstruction of a roof on the sixth floor, an illegal addition, after the removal of the seventh – a complication the BSA offered to help overcome at the September 16 hearing. It is my understanding that despite the previously mentioned factors, the owner has not taken advantage of BSA's offer of assistance in obtaining permits in order to meet their obligations.



I think it is questionable as to whether the owner is acting in good faith and may be intending to delay this process. It was not until October 13, nearly a month after the BSA's order to remove the seventh floor, that the owner sent eviction notices to the tenants occupying floors that would be affected by construction. These notices were not only issued late, but were 90 day eviction notices, giving current tenants until January 13 to relocate – well past the November deadline – as apparently required by a clause in their leases that was never disclosed during the previous proceedings. I believe that these actions possibly demonstrate an attempt by the owner to undermine BSA's directives. When combined with the owner's history of ignoring agency directives, the failure to disclose this clause to the BSA would suggest that the owner may never have intended to follow the BSA's order.

The owner appears to have consistently demonstrated that they have no interest in complying with the law. I continue to believe that the only proper course of action is for this variance to be denied and for BSA to order the removal of the illegal additions. As such, I respectfully ask you to reject this application.