

Neighborhood In The Nineties, Inc.

14 February 2013

Hon. John Liu
Comptroller
City of New York

Dear Comptroller Liu,

I believe you have received in the past day or two, a backdated letter (4 Feb) from DHS Commissioner Seth Diamond to Mayor Bloomberg proposing that the City award Aguila a permanent contract for the double-shelter A/K/A "Freedom House East" and Freedom House West," two adjoining buildings at 316 and 330 West 95th on the Upper West Side.

During my personal service for the City and Federal Government, and 30 years in the private sector, rarely have I experienced reading a document prepared by a government agency that is so full of fictionalized circumstances, mendacity and deliberate misleading distortions.

Were you to accept the Commissioner's representations and approve this contract, you would be doing yourself and the high office of Comptroller of the City of New York, as well as the people a major, embarrassing disservice.

Please reject it the contract to which it refers.

DHS has not, despite its claims, met its obligations under the previous emergency contract to establish a community advisory board. It has not been responsive to neighbors' concerns. Its "Fair Share" analysis of neighborhood impact directly contradicts input from elected officials and letters from the community, and is based on glaring falsehoods—such as its claim that there are no other shelters within 400 feet when the block includes the St Louis Hall for mentally ill chemical abusers drawn directly from DHS. It alleges that there would be no adverse impact on the neighborhood, when in fact elected officials have told it the opposite, and it refused requests to meet with the community until after it had prepared a new contract. It does not take in to account the "tipping" point effect of adding a high concentration of special needs tenants to a neighborhood that already has 17 facilities within 18 blocks and nearly 20% of the borough's supportive housing—a clear violation of the city's Fair Share law.

Commissioner Diamond writes that the conditions of community input were fulfilled there were three meetings of the CAB, which should refer to a Community Advisory Board, which may be established by the Borough President or the Community Board under "Criteria for the Location of City Facilities, "Fair Share" siting guidelines and procedures pursuant to Section 203 of the New York City Charter, 1990," Article 6.3. This is a complete misrepresentation and falsehood. Neither Community Board 7 nor the Borough President established a "CAB" for the West 95th Street Aguila shelters, and none existed.

Not only did Commissioner Diamond and his vendor Aguila not fulfill their Charter-mandated obligation for community input, they **deliberately misrepresented** meetings with public officials as "CAB" meetings. Commissioner Diamond's letter asserts that "CAB" meetings were held on 15 August 2012, 12 December 2012 and on 30 January 2013. No elected officials, and no one from Community Board 7 recalls these meetings, which were held to protest the emergency creation of the double-shelter as being "CAB" meetings. They specifically deny that a CAB ever existed.

Article 6.3 states that a CAB is specifically a facility monitoring committee that is established once the "facility site is selected[[MW1](#)]." It may be a committee of the Community Board. It is to adhere to a meeting "schedule," issues reports and address "community concerns." DHS cannot claim that a CAB is the mere act of meeting with ad hoc individuals--four months apart without a designated committee.

The 12 December 2012, also falsely billed as a CAB meeting, is of further interest. The DHS and Aguila met with Borough President Stringer and Council Member Brewer (not Community Board 7). Not only was no mention of the fact that a permanent contract had already been signed by Aguila and submitted to MOCS, no word was mentioned that the following day a public hearing was to be held by DHS. Brewer and Stringer both deny having received notice from DHS of that hearing.

Please view the so-called "CAB" meeting of 30 January 2013. It was a public meeting attended by 275 people who packed Congregation Anshe Chesed to demonstrate their opposition to the West 95th Street (Freedom House) shelters. Video from the meeting is posted here. Note the animated exchanges between the Commissioner and elected officials, who presented chapter and verse distortions and misrepresentation made to deny Section 203 of the Charter mandated input in the siting and contract process:

<http://www.supremefiction.com/theidea/2013/01/upper-west-side-stands-up-to-political-machine.html>

The DHS allegation that "several" Freedom House residents spoke up in favor also is false. One man asked why the roughly \$3800/month over the years could not be spent for long-term affordable housing. Another woman, who lived there before Aguila took over, complained that DHS curfew rules nearly prevented her from finishing her education. The resident who testified for the shelter was hostile, belligerent, and repeatedly disruptive --not the "good neighbor" DHS claims all the new residents to be.

Mr. Comptroller, to paraphrase Groucho Marx, you can either believe what you see and hear, or you can believe Commissioner Diamond.

Not only did DHS fail to fulfill the basic requirements of the contract process, but as you may see and hear for yourself Council Member Brewer reprimanded DHS Commissioner for "burying a contract that goes on for years and years." She also accuses Mr. Diamond at this public meeting of 275 people, with The New York Times present, of mislabeling a public hearing so that "zero people attended. Look around this room. It is packed. Do you think, Commissioner, that no one is interested?"

<http://www.nytimes.com/2013/02/09/nyregion/for-some-landlords-real-money-in-the-homeless.html?pagewanted=all>

DHS knows they did not fulfill the requirements for public input. In fact, despite repeated requests from Neighborhood in the Nineties, our community organization, they refused to meet until *after* they had already prepared a new contract—in fact the community input took place 5 days prior to the emergency contract’s expiration.

In addition, DHS failed to make a good-faith effort to pursue other sites, but this seems to be their M.O. – another abuse of emergency contract powers.

"The City's decision to adopt an Open Ended RFP process does not relieve it of its obligation to consider alternate sites to those proposed by private parties. The City's contention that they are limited by what buildings are offered by private parties is a self imposed limitation that can not be a basis to avoid its obligations under the City Charter.

The failure by DHS to consider alternate sites for the shelter...is a violation of 62 RC.N.Y. §Appx. A to Title 62 Articles 4.1 ©, and 6.53©."The above statement is from a ruling by Judge Wayne P. Saitta in the case of Ocean Hill Residents Association, Marino Abreu, Bernadette Mitchell, Val A. Henry, Leonard P. Harrison and Eartha Stevens, Petitioners v. The City of New York, ("NYC"); Seth Diamond, Commissioner for the Department of Homeless Services for NYC ("DHS"), Respondents, 23921/2011; Supreme Court, Kings County, Part 29. It appeared in the New York Law Journal 29 December 2011.

DHS’ misdeeds in Ocean Hill are highly relevant to the same failed process that DHS has used for Aguila’s Freedom House contract.

Again, typical of this document, DHS stated there were no other facilities within 400 feet. But they managed to exclude the adjoining St Louis Hall property at 319 West 94th Street which is so close that toxic dust from construction at the St Louis recently forced a Freedom House resident to call an ambulance for respiratory distress. The St Louis Hall property —has already placed 70 residents from New York-New York II and New York III programs. How can DHS miss a facility that was purchased with money from City HPD and will draw a majority of its 120 residents from the DHS homeless pool?

With Freedom House, over 100 total planned residents at the St Louis, and another facility at 315 West 94th Street, where the same owner/operators as Freedom House are pushing out existing tenants to make room for “affordable housing” tenants also to be drawn from DHS, would bring the total number for one block to over 700. Not, by any stretch of the imagination, “Fair Share.”

Given that DHS made such a glaring omission, its entire “Fair Share” “analysis” is suspect and must be thrown out based on what can be nothing other than a deliberate omission. Any such future analyses must be carried out by impartial third parties.

Further, in total contradiction to the City's "400-foot" rule, which is generally applied to zoning issues, and the change of use notification, Judge Saitta, uses the generally accepted "half-mile" rule.

The City says it looked at nine other sites. Were they across the street from a primary and middle school with nearly 1,000 children? Were they within a half mile of 25 schools? (DHS, in its list, left off the three buildings on 94th, 93rd and 92nd comprising Columbia Grammar School, Ideal School on West 91st St., West Side Family on West 92nd St., and the Goddard School on West 93rd St (In addition, the name of Montclare School is misidentified). There are more than 30 special needs housing and drug and alcohol treatment programs within the half mile, several housing more than 200 residents, while others are in the 100-200 range.

How many communities do so much in such a small area? According to two studies carried out in recent years, 21% of Manhattan's supportive housing beds are in CB7, and about 90% of that is located between 85th and 110th Streets.

Did the other nine locations the City claims to have searched have this overload? Saying that it does not change the character of the community does not consider whether we are at a tipping point where community life deteriorates even further and first responders cannot operate effectively.

In responding to the Ocean Hill case above, the City's answer was that it needed the site on Herkimer Street in Ocean Hill and could not site in other Brooklyn districts because of their residential nature. Ocean Hill cited several shelters and similar facilities nearby. That is why there's Fair Share. Pretending that an HPD or HRA facility does not present a burden to the community and therefore should not be considered is absurd, especially when DHS supplies the population from its pool.

Here's what Judge Saitta wrote in the above referenced case:

"Article 9.1 of the Fair Share Criteria requires the City to articulate how they have applied the Criteria in making their siting decision and to state the reasons for any inconsistencies between the Criteria and the siting decision.

"The City is given discretion as to what weight it gives particular criteria in a given case and not all of the criteria have to be met. However, implicit in requirements of the Criteria is that siting must be based on an honest analysis of the Criteria, and that any departure from the Criteria must have a rational basis.

"For example, it may be that there are no feasible alternate sites in areas with a lower bed to population ratio, for the proposed shelter. However, the City's obligation is to show that it looked at alternate sites and that its determination that there were no suitable alternate sites or that the proposed site was the most suitable in light of all of the Criteria, had a rational and factual basis."

Commissioner Diamond's letter to Mayor Bloomberg is little more than a sloppy cut-and-paste effort that does not fulfill the Charter's mandated Fair Share rules.

The Commissioner's claim that paying \$3710.33 a month for an 80-square foot room is cost effective, and that there are no other alternatives is laughable.

The Coalition for the Homeless has stated countless times that the 6,000 available NYCHA apartments, which easily could house families and provide permanent housing for 15,000 of the City's 47,000 homeless. In testimony before the City Council in October 2012, Commissioner Diamond rejects this simple solution because "there's a waiting list for people already living in NYCHA" properties. But if the Commissioner claims that we are in an "emergency," then should not the City feel compelled to give the homeless permanent housing. Surely a NYCHA apartment for a family costs less than the \$3710.33 monthly for Aguila. NYCHA has several complexes in the neighborhood.

This is especially true given that the homeless in "Freedom House," whom I have met and spoken to, complain that food prices are at least a third higher than their former outer borough dwellings, and their food allowances are thus inadequate. In NYCHA, they would be able to cook in their own kitchens, a significant cost benefit.

All of this goes to the issue of whether the City has truly exhausted alternatives to what it represents as cost-effective SRO housing. Many members of our group live in the SROs and are being forced out because of conflict with their new homeless "neighbors," which is cost effective for landlord Alan Lapes –but not for the city, for the taxpayers, or for the residents.

Finally, let's look at the efficacy of the Aguila program. The notion of "good neighbor" is an Orwellian falsehood. Our members in adjoining buildings report that a good night's sleep is a distant memory. Residents of "Freedom House" act out all night long. This nocturnal disturbance of the neighborhood's peace includes:

- People who miss curfew sleeping in the school playground and Riverside Park
- Hurling food garbage including glass objects out their windows
- Putting boom boxes in their windows and cranking up the volume
- Screaming at the tops of their lungs for hours

One young lady who faces the property says she's moving out of the City because she has not had a good night's sleep since the shelter opened in August.

Yet at the January 30 meeting, when residents raised these concerns, DHS and Aguila denied that they were true. That is their idea of being "responsive" and a "good neighbor."

The SRO residents have complained of catching skin diseases from the bathrooms and having extraordinary waits for showers when they need to take care of their hygiene before going off to work in the morning. They have also complained about people knocking on their doors at all hours to demand money for beer and cigarettes. They have also experienced confrontations with staff who challenge their right to enter and leave as they once were able to, pre-shelter.

Given the problems cited above, we cannot at face value accept the claim that Aguila is doing the job for which it is patting itself on the back. We question whether the needs of the clients are being met. We can certainly bear witness to the havoc created in the surrounding neighborhood by people who have no help for their needs, who are panicked by high prices and too often act out because Aguila does not provide the needed services and DHS has not provided the required forum for community input.

Please stand up for what is right: **reject this contract for its failure to follow the city contract process**, and reprimand DHS for its duplicity.

Aaron Biller
President
Neighborhood In The Nineties

PS: The contract #20131403406, expired on 5 February 2013. As of this morning, no contract is in your Clearview system for Aguila.