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Board of Standards & Appeals' Tie Vote on "Supertall" Continues to Sell Out Community, Say Upper West Side Officials

In an unusual 2-2 tie vote on Tuesday, the NYC Board of Standards and Appeals (BSA) failed to approve a community effort to overturn the Department of Buildings (DOB) approval of Extell Development's application to erect a 775-foot-high "supertall" building at 50 West 66th Street. The elected officials representing the area vowed to continue to fight alongside the community. The officials called on the DOB to justify its granting of the permit, including the developer's "mechanical deductions" for four full floors. (A "mechanical deduction" lets a developer deduct space for a building's mechanical equipment from the height calculation for zoning purposes, letting the developer build a taller building.)

Landmark West!, the neighborhood preservation organization that had filed the appeal with BSA, and the elected officials say Extell has never shown how the horizontal void space will be utilized, other than to boost the height of the building. Landmark West! is reviewing its options, which include filing a lawsuit to block the project in NYS Supreme Court.

Although the BSA appeal, filed by Landmark West!, failed to win a majority, the rare tie vote showed that half of the BSA members object to Extell's attempt to boost the height of its building by several additional stories. At the BSA meeting, its Chair, Margery Perlmutter, joined the two BSA members who voted in favor of the appeal to urge DOB to develop clearer and more transparent policies and procedures to ensure that mechanical floor spaces are appropriately sized to serve their stated purpose of housing mechanical equipment and infrastructure needed to operate the building and not for other accessory or ulterior uses.

Assembly Member Richard N. Gottfried said, "The 50 West 66th Street development is an abuse of zoning regulations, is contextually out of scale, and would set a terrible precedent for future proposed developments. I stand with Landmark West! and local residents in urging the City to crack down on these and other developers' abuses of the system."

Congressman Jerrold Nadler said, "I am disappointed in the BSA's decision in allowing the development at 50 West 66th Street to proceed, despite the plan's

contravention of zoning rules and regulations. Condoning the use of mechanical voids as a work-around to build to excessive heights impedes our local lawmakers' ability to curb the proliferation of 'super-tall' buildings that are plainly out of scale on the Upper West Side."

New York City Comptroller Scott M. Stringer said, "This developer is creating zoning loopholes to produce a building whose height is grossly out-of-context with the surrounding community and blatantly contrary to the intent of the zoning resolution. I stand with the community as they press for clarity and a fair resolution."

State Senator Brad Hoylman said, "The split decision at the BSA shows how extreme Extell's plans are and the danger mechanical voids can pose to other neighborhoods that could soon be blighted by super-tall buildings. It's shameful that the BSA is allowing this project to still move forward. I fully support legal action to block Extell, and am committed to passing legislation sponsored by my colleagues Senator Jackson and Assembly Member Rosenthal to ensure that developers can never again flout zoning standards to maximize their profit at the cost of our neighborhoods."

Council Member Helen Rosenthal said, "This week's 'tie-vote' is yet another example of a process which inherently favors developers. I'm reiterating my call that the BSA step out of its narrow rules and take a stand for our community and the zoning guidelines established to protect it. If Extell wants to construct a building that vastly exceeds the height guidelines for the Lincoln Square Special District, it must provide transparency about how its void spaces are being used."

LANDMARK WEST! Executive Director Sean Khorsandi said, "The Board of Standards and Appeals exists to interpret the rules, yet they admit the rules are bad. Tuesday's tied decision highlights the ambiguity of the text and only reinforces that developer whim governs city planning, not the Zoning Resolution. We have every local elected on board, and half of the members of the BSA, yet the developer 'wins'--what does it take for a fair decision?"

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