



Press release, Feb. 24, 2020

**Lawsuit Challenges De Blasio Administration's Proposal to Curb
Hotel Development in New York City**

Administration Acted in "Bad Faith" by Attempting to Hide the Economic Impact of the Proposal by Restricting Public Analysis to Only One Area of the City Despite Plans to Apply Proposal Citywide

Plaintiff Seeks Full Public Accounting of the Impact of the Administration's Citywide Plan to Require Special Permits for All Future Hotel Construction

Late last year the De Blasio administration green-lighted a proposal to require that new hotels in the Union Square district obtain "special permits" prior to construction. This is the latest step in what the Mayor, during a rally at the Hotel Trades Council, admitted was a plan to require such special permits for all new hotels to be built anywhere in New York City. The special permit process is so onerous – requiring ULURP review and City Council approval – that it will essentially preclude any new hotel construction.

Hotels and new hotel construction support one of New York City's most vital industries, tourism. Tourism pumps \$46 billion into New York City's economy, supporting over 300,000 jobs and providing more than \$6 billion in City and State tax revenue. Tourism has been increasing rapidly each year and requires additional hotel construction to support it. The Mayor's special permit requirement would prevent such new construction and thus limit future revenue the City could obtain from one of its largest industries.

On October 28, 2019, the City Planning Commission issued a "Negative Declaration" finding that the proposal to require special permits in the Union Square District would have no negative environmental or socio-economic impacts. However, the administration sought to hide the obvious harm a lack of hotel construction would have on New York City by defining these impacts as limited solely to the small Union Square district, despite plans to ultimately require special permits citywide. The Courts have repeatedly struck down attempts to mask the effects of a broad plan – here the citywide requirement – by proceeding in small baby steps and reviewing those baby steps in isolation.



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Today, the owner of a land parcel in the Union Square District (ELK MAS 86 East 10th Street LLC) filed an Article 78 Petition in New York State Supreme Court challenging the Planning Commission's Negative Declaration and insisting that, prior to proceeding with the plan, a full review of the impacts Citywide be conducted and made public.

"The administration has offered no economic or other public purpose for a plan to strangle new hotel development and the tourism it would support. While the motives for such a plan are unclear at best, the harm it would do is obvious, which explains the steps the administration has taken to obscure its plan" said Gene Kaufman, the most prolific architect for new hotels in NYC for the last 20 years

Prior to imposing the special permit requirement in Union Square, the City is obligated to undertake an impact study under the State Environmental Quality Review Act (a "SEQRA review"). Here, the City limited the SEQRA review to only the effects of the Union Square re-zoning, despite the fact that it was just one step in the citywide plan. The brief in support of the Article 78 Petition explains the pernicious effects of such a limitation:

"... a proper SEQRA review would expose the plan as an existential threat to new hotel development, sacrificing all the New Yorkers who build hotels, work in them, provide off-site services to them — linens, booking, and more — and of course stay in them.

A proper SEQRA review would also reveal the impacts on neighborhood shops, and all the other businesses in the City that rely on tourism — Broadway theatres; cultural institutions like the Met and the Natural History Museum; shopping from Madison Avenue to the Lower East Side; Ellis Island and the 9/11 Memorial; the Yankees, Knicks, and Rangers; restaurants from local diners on up. If the real social and economic costs of the plan were disclosed, no one would defend it.

So the Mayor has come up with a way to conceal the scale of those impacts: Impose the permit requirement in increments — a neighborhood here, a neighborhood there — bypassing the required SEQRA review of its cumulative effects, and acclimating the public and the City Council to a permit regime. Soon enough, citywide legislation will be an afterthought. It is a strategy to nullify SEQRA by baby steps."

The lawsuit, seeks to enjoin any further steps toward the Union Square rezoning until a proper impact study that considers the fully citywide ramifications of the plan is completed and made public.

Petitioner is represented in this matter by Richard Emery of Emery Celli Brinkerhoff & Abady LLP, Mark Peters and Lesley Brovner of Peters Brovner LLP and Charles Weinstock.

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