



DEPARTMENT OF BUILDINGS
EXECUTIVE OFFICES
60 HUDSON STREET, NEW YORK, N.Y. 10013
RUDOLPH J. RINALDI, COMMISSIONER

CAROLE S. SLATER
General Counsel & Director
Office of Legal Affairs
(212) 312-8130

September 13, 1991

Paul Selver, Esq.
Brown & Wood
One World Trade Center
New York, New York 10048-0557

Re: Convention Center Hotel Project
Manhattan West Project

Dear Mr. Selver:

This responds to your letter dated August 28, 1991 wherein you request an opinion regarding the status of the special permits granted by the Board of Estimate for the above-referenced projects.

As previously stated, the lapse of the special permits issued pursuant to Zoning Resolution ("ZR") §§74-681 and 74-743 was tolled by the litigation that challenged the validity of the zoning text amendments underlying the projects. Pursuant to the provisions set forth under ZR §74-99(a)(2), the lapse is tolled two years following the final order of the underlying litigation. If the final order was issued on July 3, 1991, the special permits issued to both projects will lapse on July 3, 1993.

The special lapse provisions of ZR §74-99 apply only to special permits granted under the provisions of Article 7, Chapter 4 of the Zoning Resolution. The language of ZR §74-99 does not make it applicable to special permits issued under ZR article I, Chapter 3.

It is our opinion that a special permit issued pursuant to ZR §74-52 (the "Public Parking Special Permit") should be tolled pursuant to ZR §74-99. In practical terms, the requirement of ZR §74-99 that at least one building be substantially completed within two years from the date of granting the special permit, could not be met if construction of the building was dependent upon special permits which were tolled. We also recognize the inequity of enforcing the lapse provision for the Public Parking Special Permit when the garage building required that a special permit be issued pursuant to ZR §74-743, but that special permit was tolled due to underlying litigation. Moreover, if the Public Parking Special Permit were to lapse, the special permit issued pursuant to ZR §74-743 for bulk modification would be compromised due to the elimination of the 100,000 square feet of floor area generated by the zoning lot on which the public parking garage is located.

Therefore, common sense and fairness dictate that the permit issued pursuant to ZR §74-52 be tolled during the period that the other special permits necessary to complete the project are tolled.

We trust the foregoing responds to your request.

Sincerely,

A handwritten signature in cursive script that reads "Carole S. Slater". The signature is written in black ink and is positioned above the typed name.

Carole S. Slater
General Counsel & Director
Office of Legal Affairs

CSS:fm