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**Testimony of State Senator Liz Krueger**  
**Before the New York City Council Subcommittee on Zoning and Franchises**  
**Regarding ULURP Application No. C 160082, Adorama, 38-42 West 18th Street**  
**September 7, 2016**

My name is Liz Krueger and I represent the 28th State Senate District, which includes the Midtown and Upper East Side neighborhoods of Manhattan and the location which is the subject of today's hearing. I regret that due to a hearing taking place in Albany today I am not able to testify in person.

Thank you Chairman Richards, and members of the City Council Subcommittee on Zoning and Franchises, for the opportunity to submit testimony on the application by 42 West 18<sup>th</sup> Street ("the applicant") for a special permit to facilitate a mixed-use development at 38-42 West 18<sup>th</sup> Street. I am extremely pleased that the Council is reviewing the City Planning Commission's decision since it will establish an important precedent and help determine the applicability of the city's recently enacted Mandatory Inclusionary Housing (MIH) Program to similar applications in the future.

I strongly support the position expressed by Manhattan Borough President Gale Brewer, Manhattan Community Board 5, The Municipal Art Society of New York, and other land use experts that the applicant must meet the requirements of the MIH Program as laid out in Zoning Resolution Section 74-32.

ZR Section 74-32 is quite clear. It reads:

"Where a special permit application would allow a significant increase in #residential floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-29 (General Provisions)."

The Department of City Planning has defined a “significant increase” as 10 residential units or 12,500 sq. ft. of residential floor area. The applicant has indicated that the alterations to rear yard, height and setback, and street frontage requirements that they have requested would result in the creation of an additional 26 residential units, easily meeting the “significant increase” threshold.

The applicant has stated that MIH should not apply, “because the bulk waivers requested under the ZR Section 74-711 Special Permit application simply facilitate the use of permitted residential floor area.” This is an erroneous interpretation of the law. ZR Section 74-32 makes no reference to the requirement for an increase in *permitted* residential floor area; instead it clearly states that a permit that allows a significant increase in *actual* residential floor area, as this prospective permit would, must meet the requirements of MIH. This straightforward interpretation is bolstered by the Environmental Assessment Statement for the proposed MIH text amendment, which read, “the MIH program would also apply outside of MIH areas in zoning districts as a condition of granting future special permits for use or bulk modifications that facilitate the creation of a significant number of additional dwelling units.”

The decision reached on this special permit application will set a precedent that will significantly impact the amount of permanently affordable housing produced in neighborhoods throughout New York City through the MIH program. The failure to apply MIH to special permits such as this one would weaken the effectiveness of the MIH program that the City Council recently worked so hard to implement. I strongly urge the Council to abide by a plain reading of the law, and mandate the inclusion of affordable housing under MIH for 38-42 West 18<sup>th</sup> Street.

Thank you for your consideration of my views.