

43-14-A

APPLICANT – Rosan & Rosan, P.C., for Milburn Hotel, owner.

SUBJECT – Application March 14, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize 120 hotel units, as provided recent (2010) legislation under Chapters 225 and 566 of the Laws of New York. R8B zoning district.

PREMISES AFFECTED – 242 West 76th Street, south side of West 76th Street, 112’ west of Broadway, between Broadway and West End Avenue, Block 1167, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to obtain a certificate of occupancy for use of certain dwelling units within Class A multiple dwelling for other than permanent residence purposes pursuant to Multiple Dwelling Law § 120; and

WHEREAS, a public hearing was held on this application on April 29, 2014, after due notice by publication in *The City Record*, and then to decision on May 13, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the south side of West 76th Street between West End Avenue and Broadway, within an R8B zoning district; and

WHEREAS, the site has 75 feet of frontage along West 76th Street and 7,824 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 15-story multiple dwelling; the building is known as The Millburn Hotel; according to the last-issued certificate of occupancy (“CO”) for the building (CO No. 102797127, issued March 24, 2009), the building contains 137 Class A dwelling units; and

WHEREAS, the applicant states that the building was constructed as a hotel in 1926 and that the vast majority of its dwelling units (120 units) have always been other than permanent residence purposes; and

WHEREAS, the applicant notes that while the original CO (No. 11583, issued October 22, 1926) described the building as a “hotel,” subsequent COs, including the current CO, describe the building as a Class A multiple dwelling; and

WHEREAS, on May 1, 2011, MDL § 120 was amended to permit the owners of certain Class A multiple dwellings to maintain existing dwelling units used for other than permanent residence purposes (i.e., hotel

rooms) provided that, among other things, the building is made to comply with the MDL § 67 provisions relating to transient use and an amended CO is obtained to reflect such transient use; and

WHEREAS, pursuant to MDL § 120, such amended CO was to be obtained prior to May 1, 2013 and the Department of Buildings (“DOB”) was authorized to extend the time to obtain the CO until May 1, 2014, provided certain findings were satisfied; if a CO has not been obtained by May 1, 2014, under MDL § 120(3), the Board

may grant further extensions of time to obtain a [CO] in a case where there are circumstances beyond the applicant’s control or hardship in the way of obtaining such [CO] within the time allowed by [DOB] but no more than two such extensions of one year each shall be granted for a building and no such extension shall be granted unless the Board finds that there are no outstanding building or fire code violations of record at the property; and

WHEREAS, the applicant represents that the subject building is eligible to seek an amended CO for transient use pursuant to MDL § 120 and that it has taken certain steps towards obtaining such CO, including: (1) registering the building with DOB as Class A multiple dwelling with transient units; (2) filing an application with DOB for the amended CO; and (3) obtaining permits and installing required sprinkler and fire alarm systems; and

WHEREAS, the applicant notes that by letter dated April 16, 2013, DOB extended the time period to obtain the amended CO until May 1, 2014; and

WHEREAS, the applicant now seeks an extension of time to obtain the amended CO; and

WHEREAS, as noted above, the Board may grant an extension of time to obtain a CO pursuant to MDL § 120(3), provided it finds that: (1) there are circumstances beyond the applicant’s control or hardship in the way of obtaining the amended CO; and (2) the building has no outstanding Building Code or Fire Code violations; and

WHEREAS, the applicant states that the complexity of the required sprinkler and fire alarm work resulted in significant delays in obtaining permits, installing system elements, and testing such systems; in addition, the applicant represents that there were significant delays in obtaining Fire Department approvals due to the fact that the building did not already have a CO for transient use (the approvals were necessary for the amended CO and the Fire Department was requiring the amended CO prior to issuing its approvals); and

WHEREAS, therefore, the Board agrees with the applicant that there have been circumstances beyond its control in obtaining the amended CO; and

WHEREAS, as to whether there are open Building Code or Fire Code violations, by letter dated April 28,

43-14-A

2014, the Fire Department confirmed that there are no open Fire Code violations at the site, and by letter dated April 30, 2014, DOB confirmed that there are no open Building Code violations at the site; and

WHEREAS, the Board has reviewed the evidence in the record and determined that the requested extension of time is warranted; and

Therefore it is Resolved, that this application to extend the time to obtain a certificate of occupancy for use of 120 dwelling units within the subject Class A multiple dwelling for other than permanent residence purposes pursuant to Multiple Dwelling Law § 120, is granted and will expire on May 1, 2015.

(DOB Application No. 120829540)

Adopted by the Board of Standards and Appeals, May 13, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, May 13, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

