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City blocks St. Marks restaurant, siding with tenants

BY PATRICK HEDLUND

Tenants in the East Village struck a victory against owners of their residential building on a busy stretch of St. Marks Pl. last week after the city shot down the landlord's request to convert a portion of the property for commercial use.

An appeal by the building's owners to rezone cellar space for commercial use that they said was needed to make the property marketable was unanimously denied by the city Board of Standards and Appeals Oct. 16, following a protracted battle with the community.

Residents of the five-story building, located at 8 St. Marks Pl. on the heavily trafficked block between Third and Second Aves., had long fought to prevent attempts at rezoning the structure to court a commercial tenant.

The ruling comes after years of wrangling between the owners and residents of the building, which is zoned for residential use except for the partially belowground cellar space that permits office tenants. Many residents on the block say they are overwhelmed with retail establishments and believe the move by building owners Jon and Ben Shalom of Sky Management would have only worsened the situation.

Susanne Schropp, president of the Eight Saint Marks Place Tenants Association, which formed after Midtown-based property owner Sky Management purchased the address in 2001, said the ruling marks a win for the city and local residents hoping to stanch the proliferation of new bars and restaurants.

Community members and local organi-

zations—including Community Board 3; the Shalom Tenants Alliance, which represents residents in over 100 Sky Management-owned Manhattan buildings; the Cooper Square Committee; State Senator Tom Duane; and Assemblymember Deborah Glick—have repeatedly supported the building tenants' efforts at blocking the conversion.

"There have been places that have tried to expand [by adding commercial space], and we've stopped it," said C.B. 3 district manager Susan Stetzer. "Our job is to make sure that there's compliance with regulations."

Schropp echoed both Stetzer's sentiments and those of her tenant organization that the area should continue to adhere to zoning regulations and not bend to the trend of commercialization on the block.

"If everyone just gets a variance, then we don't need zoning laws," said Schropp, a 17-year resident of the building, which contains both rent-stabilized and market-rate units. She also noted that retail space has begun encroaching into second stories along the street. "We do not want the commercial strip on St. Marks," Schropp said. "It doesn't have to get any worse."

According to Stetzer, the community board voted on multiple occasions not to recommend the variance, unanimously denying the conversion in both 2005 and February of this year.

The B.S.A. then sided with the community board's decision to rebuff the request by Sky Management, stating the owners couldn't prove that the zoning conversion would act to relieve them of financial hard-



Villager photo by Elizabeth Proitsis

The city's Board of Standards of Appeals has denied an appeal from the building owners of 8 St. Marks Pl., who wanted to rent its cellar space as retail.

ship due to an inability to attract office tenants.

The B.S.A. also cited the Shaloms' failure to effectively market the space to possible office tenants, noting the cellar area had sat vacant for 26 years and the owners only attempted to market the space over a four-month period.

Schropp said that her landlords previously advertised the cellar space as "ideal for a sidewalk café," even when the zoning prohibited such establishments.

According to a statement released by the tenant's association, B.S.A. chairperson Meenakshi Srinivasan noted before the ruling that the landlords had been unresponsive to B.S.A. inquiries about the state of the cellar space, describing the owners' behavior as "almost adamant resistance" for failing to provide proof that it was unmarketable to an office tenant.

Schropp also reported that her landlords went as far as to raze one of the building's stone stoops and install a display window on the first floor, above the cellar

level, to encourage another commercial tenant in that space.

In that instance in 2003, Schropp alleged the owners removed walls containing gas lines on the first floor during the attempted conversion process, cutting off some tenants' use of their stoves for nearly a year.

The Department of Buildings, however, ordered the first floor to remain residential after tenants from the building and members of the Cooper Square Committee sent affidavits to the department stating the property was reserved for residential use, according to Schropp. Residential tenants do currently occupy that space, she added.

Sky Management, the owner of numerous large properties from the West Village to the Upper East Side, referred all inquiries related to the case to their attorney, Howard Hornstein. He said the owners are now determining whether to appeal the B.S.A.'s decision in court and had no further comment.