



Photo by Lincoln Anderson

The city has issued violations for two added floors — one is set back from the street, so not visible in this photo — atop 515 E. Fifth St., center.

‘Start chopping,’ pols say on E. 5th too-tall tenement

By Lincoln Anderson

Rent-stabilized tenants of an East Village building that had two floors added on top of it are saying the building is unsafe and demanding that the extra stories be removed.

Three of 515 E. Fifth St.’s remaining rent-stabilized tenants gathered in front of the building in a steady rain on Wednesday morning for a press conference. They were joined by members of the Community Development Project at the Urban Justice Center, City Councilmember Rosie Mendez, state Senator Dan Squadron and Wasim Lone, a member of

GOLES (Good Old Lower East Side).

Harvey Epstein, the Urban Justice Center's executive director, said the additions — by developer Ben Shaoul — had created a dangerous situation for the tenement's market-rate and stabilized renters, alike. The walls of the addition aren't fire-rated, Epstein said. Plus, he added, the means of fire egress from the building's top is no longer safe, involving an unorthodox ladder that drops down to the fire escape. Also, under regulations governing old-law tenements, the building should have an elevator since it's now taller than five stories, he stated.

"It's pretty simple," said Squadron. "It's against the rules — it's got to be fixed."

Mendez said, "For nearly six years I have been calling to the attention of both the owner and the Department of Building all of the ways in which this building is out of compliance with city codes. The building is just too big and unsafe and the courts agree. It's time for D.O.B. to crack down and the owner to do the what's right and cut the building down to size."

In a statement, Assembly Speaker Sheldon Silver said the building clearly violated the state's Multiple Dwellings Law.

"It is now past time for the owner to comply with the law and remedy this situation," Silver said, adding he'd been advocating for years that the extra floors be ruled illegal.

In fact, although the Department of Buildings initially partially approved the addition, the city's Board of Standards and Appeals subsequently ruled it was all illegal.

However, due to how the law is worded, it's actually up to the discretion of D.O.B. whether to order the stories' removal.

As a result, it's unlikely the tenants and U.J.C. would try litigation, Epstein said.

"It just seems like a legal quagmire that goes on forever," said Sharon Jane Smith, a tenant in the building since 1984. "There is no certificate of occupancy for those apartments," she noted of the additional floors.

The rent-regulated tenants charge that Shaoul's lack of compliance is part of an effort to force them out of their homes. Other regulated tenants took buyouts to leave.

Smith runs a secondhand store on First Ave., Repeat Performance, and said she's seen the neighborhood change drastically over the years. Even so, a new building is currently being constructed on the block and it's the same height as all the others — not exceeding the permitted height, as Shaoul did with 515 E. Fifth St.

Another building where Shaoul tried to do the same thing, 514 E. Sixth St., currently sits in limbo: The two-story rooftop addition's shell has been built but the city has issued a stop-work order, so the actual apartments haven't been created inside yet.

Shaoul reportedly assured that the issues with fire safety at 515 E. Fifth St. would be moot once he added a sprinkler system. But a fire subsequently broke out in a rent-stabilized tenant's apartment and the sprinklers didn't activate, leaving the remaining tenants still anxious about their safety.

Epstein said the very least that should be done is to bring the rooftop addition up to code with fire-rated walls, a regulation fire escape and an elevator.

According to city officials, the story is actually more complex than what was stated at Wednesday's press conference, and there's actually some headway being made against Shaoul.

According to officials, D.O.B. — pertaining to Shaoul's E. Sixth St. building — initially granted the developer a waiver to the Multiple Dwellings Law because he said he'd add certain fire safety features along with the addition. D.O.B. at that time said that the seventh story of 514 E. Sixth St. had to be removed, but that the sixth story could stay. But the B.S.A. said D.O.B. couldn't issue the waiver for any part of the addition.

Subsequently, the East Village/Lower East Side rezoning — which added new height caps for the neighborhood's buildings — was passed, and D.O.B., in December 2010, now said both the sixth and seventh stories of 514 E. Sixth St. were, in fact, in violation and had to be removed.

Shaoul has applied to the B.S.A. for a variance to keep the two added floors and the board's decision is pending. The ruling will affect both buildings in question.

In fact, D.O.B. isn't "not doing anything," as the tenants charge, but is now actually taking a hard line, which could be setting the stage for legal action by the city against Shaoul, according to the agency's chief spokesperson.

"The department has issued violations to the owner regarding the illegal floors and we have referred the case to the Law Department for additional enforcement," said Tony Sclafani.

In 2007, the Association for Neighborhood Housing Development rated Shaoul one of the city's 11 worst landlords, citing charges of harassment and intimidation at two of his buildings, 322 Mott St. and 166 Elizabeth St.