

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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BD NY HOTELS, LLC,

Petitioner,

Index No. 105761/08

- against -

**AFFIDAVIT OF  
DAVID ELDER**

CHELSEA 23<sup>RD</sup> ST. CORP.,

Respondent.  
-----X

STATE OF NEW YORK     )  
                                  ) s.s.:  
COUNTY OF NEW YORK    )

**FILED**  
MAY 08 2008  
COUNTY CLERK'S OFFICE  
NEW YORK

DAVID ELDER, having been duly sworn, deposes and states as follows:

1. I am a member of the Board of Directors of Chelsea 23<sup>rd</sup> St. Corp. ("Chelsea"), the Respondent in the above-captioned proceeding. I compiled the analysis that appears in Exhibit 1 annexed hereto. It is based on information available from the books and records of Chelsea and on assumptions that I believe are reasonable based on those records, as well as my own experience and discussions with Marlene Krauss, another Board Member.

2. The principal assumption underlying the analysis presented in Exhibit 1 is that if BD NY continues to manage the Chelsea Hotel, the renovations that are long overdue and so clearly needed will not be accomplished. Although BD NY acknowledges that 8 rooms were unfit to rent and that an additional 40 rooms are in "horrible" condition, it has done virtually nothing to rectify that sorry state of affairs, which is the result of decades of inattention and disregard at the hands of those who ran the hotel

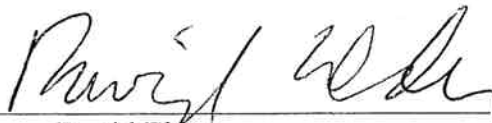
before the new Board of Directors finally succeeded in replacing that management. The hope was that BD NY would usher in a new era of excellence for the iconic Chelsea Hotel. Regrettably, however, that has not occurred. Ira Drukier, a principal of BD NY, has made it clear that he wants to buy the hotel. Although the Board has made it equally clear to Mr. Drukier that the hotel is not for sale, his refusal to undertake the renovation program that is so badly needed reflects his unwillingness to do anything that will increase the value of the hotel that he would like to purchase.

3. The attached Table assumes that if BD NY continues to manage the hotel until completion of the arbitration, it will delay the renovation project by 3 years even if Chelsea prevails in that proceeding. This assumption is based on the fact that a Certificate of Non-Harassment must be secured from the City of New York before the renovation project can be launched, and BD NY has already made clear that it intends to disqualify Chelsea from securing that Certificate by refusing to remedy the violations at the hotel that have been identified by City Inspectors. One of the many reasons for terminating BD NY as a manager at this point in time is that it has refused to cure violations on a timely basis (or sometimes not at all) and has thus placed the hotel at considerable risk of a 3-year delay in proceeding with these renovations. The penalty for non-compliance is a 3-year period of ineligibility to secure the Certificate of Non-Harassment necessary for a capital renovation project.

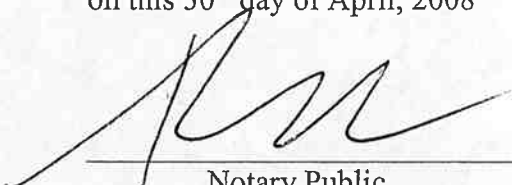
4. Other assumptions underlying the calculation presented in the attached Table are derived from an investigation of the market rent that could be charged after the renovations are completed; a conservative estimate that 20 of the 120 units that are now rented as apartments can be converted to the far more lucrative use of transient hotel

rooms; and that the commercial spaces could be renovated, upgraded and re-let at higher rents. To reflect the fact that a 3-year delay in commencing the anticipated \$15 million capital project would defer incurring the cost of capital for 3 years, the analysis reduces the anticipated loss by \$3.15 million.

5. As Exhibit 1 demonstrates, If BD NY is permitted to continue its operations as Manager of the Chelsea Hotel pending completion of the arbitration, the potential harm to Chelsea would be more than \$20,000,000.

  
\_\_\_\_\_  
David Elder

Subscribed and sworn to before me  
on this 30<sup>th</sup> day of April, 2008

  
\_\_\_\_\_  
Notary Public

ROBERT D. PILIERO  
Notary Public, State of New York  
No. 02PI4973329  
Qualified in New York County  
Commission Expires December 13, 2010

**Transient Rooms**

1	2	3	4	5	6 (5-3) Diff.	7 (4*6) Weighted Avg.	8 (5*7) Weighted Avg.
Type of Room	# of Rooms	Present Rate	% of Room Stock	Future Rate	Pre. and Fut. rate	Hotel Rooms	Apartments
Suite	8	\$279	7.34%	\$600	\$321	\$23.56	\$44.04
2Dkt	10	\$219	9.17%	\$400	\$181	\$16.61	\$36.70
King	4	\$219	3.67%	\$400	\$181	\$6.64	\$14.68
Semi	20	\$99	18.35%	\$150	\$51	\$9.36	\$27.52
Dbdb	11	\$199	10.09%	\$350	\$151	\$15.24	\$35.32
DB	19	\$199	17.43%	\$350	\$151	\$26.32	\$61.01
Dbkt	18	\$199	16.51%	\$350	\$151	\$24.94	\$57.80
QN	5	\$219	4.59%	\$400	\$181	\$8.30	\$18.35
King	4	\$219	3.67%	\$400	\$181	\$6.64	\$14.68
JS	6	\$229	5.50%	\$500	\$271	\$14.92	\$27.52
2BD	3	\$349	2.75%	\$700	\$351	\$9.66	\$19.27
TRIP	1	\$229	0.92%	\$500	\$271	\$2.49	\$4.59
<b>Total</b>	<b>109</b>					<b>\$164.67</b>	

<b>Vacating Rooms</b>	<b>Assumed Rent of</b>	<b>Total Weighted Avg. Apartments</b>	<b>3 Years' Lost Revenue</b>
Becoming Hotel Rooms	of Vacating Tenants	Avg. daily rate for vacating apart. *	\$361.47
20	\$3,000	Weighted Average for vacating apart.	(\$98.63)
			\$262.84

<b>Hotel Rooms</b>	<b>109</b>	<b>\$164.67</b>	<b>Daily Total</b>	<b>\$17,949.00</b>	<b># of Rentable Days (3 years)</b>	<b>918</b>	<b>3 Years' Lost Revenue</b>	<b>\$16,477,182.00</b>
New Hotel Room	20	\$262.84		\$5,256.76		918		\$4,825,701.14
Renovation Cost	\$15,000,000	Interest rate	7.00%	Cost of capita	\$	3,150,000.00		(\$3,150,000.00)
								\$18,152,883.14

<b>Total Rooms</b>	<b>Weighted Average</b>	<b>85% Occupancy Assumed</b>

