

Contrary to what you may have heard or assumed, Jewish Home Lifecare's (JHL) proposal to build a 20-story nursing home on West 97th Street in the 784 Columbus Avenue parking lot remains stalled. Thousands of residents of Park West Village (PWV), Stonehenge Village and other buildings that surround the proposed site, as well as parents and teachers of PS 163 on West 97th Street, residents of West 106th Street, community members and local elected officials all agree that the course that best protects the safety, health and quality of life of all parties would be for JHL to re-build on 106th Street, for which they already received approval in 2008 from the NY State Department of Health (DOH). JHL has this viable alternative that harms no one that they've refused to adopt so far.

Our community has taken 4 legal actions in order to protect safety, health and quality of life. The first was spearheaded by the Park West Village Tenants' Association (PWVTA) and was aimed at preserving outdoor parking spaces for tenants who live in 784, 788 and 792 Columbus Avenue and open space for all in the school and surrounding buildings. While the NY State HCR litigation did not succeed in preserving existing parking lots, the true success for the PWVTA was the retention of above ground spaces for rent-stabilized tenants.

A community activist then discovered the presence of lead and other dangerous toxins in the West 97th Street parking lot on which JHL plans to build. This led to a formalized Environmental Impact Study, hearings and submission of expert testimony. The failures of the NY State Department of Health in fulfilling its mandate to protect New Yorkers from the dangers of toxins via the study led us to lodge an Article 78 against the DOH for its arbitrary and capricious responses to the community's health needs. We await that judge's decision.

Parents of PS 163, the elementary school within 30 feet of the West 97th Street lot, lodged a suit against JHL for their failure to protect the children from construction dangers, toxins in the soil and from construction noise that would interfere with learning. We await the judge's decision also.

The community also filed with the Board of Standards and Appeals because proposed construction of the nursing home violates open space requirements in the NYC Zoning Resolution. We filed an appeal, and that case will be heard on December 8, 2015.

Background

The land swap between JHL and developer Joseph Chetrit has not yet been consummated. Meanwhile, according to recent articles in [Bloomberg News](#), the [Wall Street Journal](#), [The Real Deal](#), and the [Jewish Voices NY](#), Joseph Chetrit was accused of laundering large sums of stolen foreign money. He settled out of court. Chetrit has a past felony record for violating US trade laws. In addition, Chetrit has partnered with another developer to build luxury housing and gentrify amenities in the South Bronx. They recently advertised their initiative via a gala that featured props of burned out cars with bullet holes, actors playing homeless people warming their hands over trash cans of fire, etc. The NY Times quoted written criticism of the event by City Council Speaker Melissa Mark-Viverito: "Lack of empathy and basic awareness are signs

of an ailing society... Trivializing legit community concerns are not welcome. Neither are attempts to erase the neighborhood's culture and history." Might JHL's partnership with Chetrit dishonor the very reputation Jewish Home strives hard to achieve via lobbyists, lawyers, PR, and Marketing?

In its Certificate of Need (CON) application to DOH, (which has a number of unmet contingencies and has not yet been approved) JHL claimed that there were no environmental issues with the parking lot on West 97th Street.

Fortunately, *a concerned citizen had that location tested according to strict protocols, and the lot was found to be highly toxic for lead, mercury, arsenic and other dangerous chemicals.* If left undisturbed, doctors and scientists claim these would not be harmful. But if disturbed by construction, airborne in dust particles, they would be highly toxic to the hundreds of school children, some as young as 3 years old, whose school lies within 30 feet of the lot. Doctors and scientists stated that children in the surrounding neighborhood, along with elders and those with compromised immune systems, would also be at risk. The meager mitigation efforts Jewish Home proposes, of watering down the soil periodically, has been shown to be ineffective in protecting residents from swirling wind that would carry lead-contaminated construction dust far and wide.

Of note is the warning on NYCDOH's own website that construction workers must remove boots and all clothing and shower and change clothes before entering their homes. But what are neighbors and school children to do? Need we all leave shoes, clothing and backpacks outside our homes to protect us from toxins? If the unlikely occurs and JHL is permitted to build on that parcel, perhaps all residents in its vicinity should be tested for lead before and after construction.

The cramped site, surrounded by the elementary school and apartment houses, poses construction hazards from crane accidents and from debris falling from dangerous heights, including onto the students within the low-slung tar-roofed school. In addition, noise experts have testified that harsh construction noises expected during the protracted construction period would interfere dramatically with children's learning. Cranes for JHL's proposed 280-foot high-rise would also tower over the tar roofs of the 16-story surrounding apartment houses.

Park West Village, located on a superblock from 97th to 100th Streets and from CPW to Columbus and even to Amsterdam Avenues, without the usual side streets that normally dilute traffic, suffers from inordinately heavy traffic along the 97th Street corridor. This delays first responders from reaching people within an adequate period. Because of gridlock, ambulances have been observed taking 3 traffic light rotations before being able to proceed west on 97th Street between Columbus and Amsterdam Avenues – the very block on which JHL wishes to impose a 24/7 heavy traffic 20-story health care facility.

Shortly after little Ariel Russo was tragically struck on the sidewalk on 97th and Amsterdam, 3 ambulances were observed just north of 100th Street, sirens blaring, unable to proceed south on Columbus Avenue. There was no place for cars and trucks to pull over to permit the ambulances to pass. What if they had been able to arrive in time to save that little girl's life?

When our community urged DOT to undertake a comprehensive study of overwhelming traffic congestion, a request that was twice supported by Community Board 7, DOT ignored us. Because the city failed to do its job, we were obliged to hire independent traffic engineers. We forwarded DOT their comprehensive reports that warned of serious traffic congestion on West 97th Street even before JHL's intended 24-hour, 20-story nursing home which would add vast truck, ambulance, ambulance and car traffic. DOT Manhattan Commissioner Margaret Forgiione advised that DOT routinely disregards communities' professional traffic engineers' reports. Instead, DOT wrote to DOH in support of JHL's hired traffic consultant, Sam Schwartz, who predictably minimized our community's dangerous congestion and the inevitable exacerbation of traffic conditions should JHL be authorized to proceed.

We appealed to DOT's Commissioner Trottenberg and Manhattan Commissioner Forgiione in person and in writing that they rescind their letter of support for JHL's hired engineer while disregarding our independent traffic engineers' reports. But they refused. There are grounds that DOT be sued for its conflict of interest and for acting in an arbitrary and capricious manner.

It is obvious to everyone familiar with the traffic patterns that both nursing home and community residents would be at risk from delayed first responders. This has been predicted in numerous documents filed with DOH and was emphasized, along with other hazards, in a letter mailed on November 23, 2015, to each of Jewish Home Lifecare's Systems' Trustees.

Current gridlock would also be compounded and further exacerbated by a protected bike lane on Amsterdam Avenue, which DOT is now advocating and promoting. It should be noted that, like Columbus Avenue, Amsterdam is a statutory truck and emergency route. The bike lane on Columbus Avenue has already added significant congestion – delaying buses, trucks and cars. As a result, New Yorkers for whom subways aren't accessible – seniors and persons with disabilities who rely on surface transportation to get to medical appointments, shop, visit friends and participate in the city's cultural and commercial life – are now significantly delayed on buses and in taxis, as is everyone else. As densely populated as Manhattan is and having been targeted for terrorist attacks, it is astonishing, that NYC would consider further compromising these crucial north-south emergency routes.

An ABC news report debunked DOT's statistics on traffic speeds on Columbus Avenue, and with repeated studies showed how delayed buses and taxis had become since the addition of protected bike lanes.

A more dangerous result occurs in morning rush hour. Since the bike lane was imposed, traffic is so congested on Columbus Avenue that many cars drive east across West 100th Street to try to drive southbound on CPW. But now the congestion from 100th Street south during morning rush hour has become so great that cars honk horns, idling cars spew pollutants and more critically, fire engines and ambulances that must travel south can only do so by barreling southbound on CPW's northbound lane! This dangerous practice is the new normal. Although apprised of this, DOT and Council Members Mark Levine and Helen Rosenthal have thus far ignored the unsafe consequences of their initiatives in our neighborhood and disregarded citizens' repeated concerns about delayed first responders not being able to get to us within a safe period during morning rush hour.

In addition to adding to an already unsafe congestion problem, JHL's plan entails their usurping the private driveway that for over 50 years has served residents of 784 Columbus Avenue, a building whose entrance is not on 97th Street but faces west within the parking lot. That's the only way those residents (many of them seniors) can receive deliveries to their building from UPS, FedEx, FreshDirect, etc., and be picked up by Access-a-Ride, taxis and ambulances. If JHL is permitted to build, its many ambulettes, ambulances, visitors' vehicles would clog that driveway and the residents of 784 Columbus would no longer have functional access to their building. And the proposed nursing home residents, school children, teachers, residents of 784 Columbus Avenue and other nearby apartment buildings would be at further risk because of delayed first responders.

Our community supports JHL's need to upgrade its dated physical plant but having studied what they propose for West 97th Street, we feel that their plan is as detrimental to the nursing home residents as it would be to residents of our neighborhood. Since the parking lot they have chosen is one-third of the size of their existing property on 106th Street, and is too small a shoe for such a large foot, they felt obliged to build too tall. The 20 stories they plan, at 280 feet, would be the equivalent height of a 28-story building, one that would tower over the bordering elementary school and the surrounding 16-story PWV buildings.

At 20 stories, frail elderly residents would be warehoused in too restrictive an environment, confining them from street level normal activity for the rest of their lives. JHL has neither the capacity nor plan for evacuation in the event of fire or other catastrophe. The clogged driveway would also compromise first responders' quick access both to nursing home as well as to neighborhood residents.

According to the landmark September 2008 study, *US Structure Fires in Nursing Homes* by Jennifer Flynn of the National Fire Protection Association, an estimated 2,810 structure fires are reported to municipal fire departments annually. The leading causes of these fires are the large heat generating appliances which JHL's design features. On each of its long term care floors, not encased behind concrete walls to separate them from frail elders, JHL plans to have 2 stoves, 2 dishwashers, 2 clothes washers, 2 dryers and 2 electric fireplaces. And concern heightens.

In order to accommodate this model, heavy lobbying of the federal Centers for Medicare and Medicaid Services (CMS) took place that successfully reduced the federal fire safety code for nursing homes nationally. Alice Bonner, who headed up the CMS nursing home division that oversaw DOH at the time it was evaluating JHL's application to build on 97th Street, was an honored guest at a luncheon that JHL held during the evaluation period.

There is neither the capacity nor plan to evacuate frail elderly residents in the event of fire or other catastrophe. And as described earlier, the location of the planned nursing home is on a block that is already notably congested, delaying first responders. JHL also plans to have a vastly reduced staff, especially at night, further putting frail elders at risk.

Attention must be paid to the safety, health and well-being of nursing home and community residents of all ages who would be placed in immediate jeopardy by JHL's plans.

The media has begun to poke holes in JHL's fragile façade. Its partnership with Joseph Chetrit to swap properties raises questions about whom they've chosen to deal with. But even more egregious and alarming news appeared in an article in October 2015 in [Pro Publica](http://www.propublica.org/article/new-york-for-profit-nursing-home-group-flourishes-despite-patient-harm?google_editors_picks=true), reporting the systemic failings of SentosaCare, LLC, the for-profit chain to whom JHL plans to sell its 744-bed nursing home in the Bronx. It is as devastating and heartbreaking as it is shocking that JHL's CEO and board plan the sale of its largest nursing home to a chain known for poor care. See: http://www.propublica.org/article/new-york-for-profit-nursing-home-group-flourishes-despite-patient-harm?google_editors_picks=true

Sentosa's attorney, Howard Fensterman is identified in the article. He was a member of the Public Health and Health Planning Council (PHHPC) when that body reviewed Jewish Home's proposal to build on West 97th Street. He did not abstain at the time and voted for the project. In a separate report, Fensterman is shown donating money to de Blasio, Cuomo and Skelos. All of the community's many letters to de Blasio and Cuomo have never been acknowledged, let alone responded to appropriately. Yet they posture as being progressive officials.

The public isn't hoodwinked by positive PR spin because we live every day with the consequences of pay to play. Industries and corporations buy access. Bought officials in turn signal city and state departments to favor corporate interests even when these put the public at great risk. The average person and this community conclude: "Enough is enough!"

Years ago, Jewish Home was thought to be dedicated to serving frail elderly people and committed to clinical competence, if not to helping people achieve meaningful living despite the difficult challenges they face. Our community fears that the corporate culture of The New Jewish Home may further compromise and even distort JHL's adherence to its legendary mission.

While we do not have data to corroborate, our relatives and friends in JHL's three nursing homes tell us month after month about diminished clinical and administrative competence, a disconnect with what individuals need, and ever-lowering staff morale.

A year and a half ago, we brought to Jewish Home a renowned international architect who specializes in humane and enlightened housing for elders to present a vision for JHL to re-build on its more spacious property on 106th Street, land that recently has more than tripled in value according to estimates published by Trulia.com. His presentation included two inter-connected 8-story wings for the nursing home. Gardens, patios, and a performing arts auditorium were prominent features. There would be room for affordable housing, which the city needs, and for a market-rate apartment building, which would yield income for Jewish Home in perpetuity to help with reduced public reimbursements.

Every fair minded person sees that Jewish Home's best interest – its residents, staff and own reputation would be best served by re-building on West 106th Street. Both the greater Park West Village community and that of West 106th Street also agree that it should pursue its original plan, already approved by DOH. By warehousing people with mobility problems on floors as high as 20 stories, JHL would be institutionalizing them, the very problem with nursing homes that its

Green House model says it was created to obliterate. New thinking opposes confining people in age and illness-segregated high-rises. No one wants to be stored away.

In *The Death and Life of Great American Cities*, Jane Jacobs reminds us that “The point of cities is multiplicity of choice – inclusiveness, diversity and access” (to normal neighborhood life). Jacobs would look at JHL’s proposal and fight like hell. “Cities,” she reminds us, “have the capability of providing something for everybody only because, and only when, they are created by everybody.” Stakeholders continue to fight like hell for the safety, health and quality of life for everybody – nursing home and community residents alike. We urge Jewish Home to re-discover its soul and pursue on West 106th Street the more humane and enlightened alternative that everyone of good will would support.

“All that is necessary for the triumph of evil is that good people do nothing.” And “In the end we will remember not the words of our enemies, but the silence of our friends.”
– Martin Luther King, Jr.

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