

The future of real estate zoning in SoHo

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Weisbrod, Anker, Betancourt and Baisley spoke at the SoHo-The Intersection of Art and Real Estate covering zoning.

A panel of distinguished speakers gathered on Thursday, Dec. 1 on the 40th anniversary of SoHo's 1971 Zoning Resolution, in order to discuss SoHo's artistic history, its current zoning problems and the future of SoHo's residential buildings.

"This conference[...] is meant to continue the dialogue that aims to reconcile SoHo's past with its not so certain future," said Jack S. Nyman, director at the Steven L. Newman Real Estate Institute, who gave opening remarks.

"Today, we will attempt to discover if art can or should survive as a vital component of this thriving mixed-use neighborhood."

In the 1970s and 1980s, SoHo flourished as an art neighborhood, with community lofts specially designated to certified artists. But as real estate values shot up, retailers began to move in, despite

violating zoning regulations and many of the artists moved out. The zoning laws, however, stayed.

Today, a loft may cost as much as \$8 million. "It begs the question – what kind of artist can afford to live and work in SoHo anymore?" asked Nyman.

According to Nyman, the conference was partly inspired by the release of the book "Illegal Living: 80 Wooster Street and the Evolution of SoHo" by Roslyn Bernstein, professor of journalism at Baruch, and her husband, architect Shael Shapiro.

Bernstein, Shapiro and Jonas Mekas, acclaimed avant-garde filmmaker, then went up to speak about their experience with SoHo.

Four speakers then came up to the podium: Charles Leslie, a gallery owner and the former president of the SoHo Artists Association; Michael E. Levine, a professional urban planner; Donald H. Elliott, counsel and former chair to the New York City Planning Commission; and Doris Diether, co-chair of the Landmarks Committee on Community Board 2 for Manhattan.

The speakers gave a background of SoHo's artistic history.

Afterwards, four new speakers were welcomed to discuss the present and future state of SoHo's residential areas and zoning regulations.

Carl Weisbrod, the first chair of the Loft Board of New York City, started off the discussion with a brief description of SoHo's loft movement in the 1970s – namely, the new wave of more educated and more affluent residents moving in.

"The appeal of lofts and the prices of lofts and the value that a loft tenant had created in SoHo and other neighborhoods created a potential pot of gold for property owners," said Weisbrod.

In turn, this led the property owners to clash with loft tenants and created conflicts between residents and manufacturers.

Loft tenants were signing commercial leases to live in these buildings; many owners would eventually try to kick these

tenants out because they were not permitted to live in commercial space.

Suzanne Anker, Chair of the Fine Arts Department at the School of Visual Arts, noted that artists were moving out of SoHo and moving into other art communities that had been springing up all over the country as of late, even in places as unlikely as Detroit.

Michael Betancourt, a founding partner and managing director of the private equity firm, AION Partners, started buying realty in SoHo in 1993. He discussed the problems his company faces with SoHo's zoning.

"From our perspective, when we went into the community, we sensed that market forces and the reality of SoHo are not really in sync with the provisions of the current law," said Betancourt.

According to Betancourt, SoHo has become one of the most sophisticated and costly neighborhoods in the city. His group wants to convert their acquired assets in SoHo into high-end lofts.

Looking at zoning from developer's perspective, there are huge challenges.

One of AION Partner's assets, the building at 115 Mercer St., presents a zoning challenge. The problem lies in the building's certificate of occupancy.

According to this document, this specific building has an art gallery on the first floor, a factory on the second and third floors, a studio on the fourth and a joint living and workforce living area on the fifth.

This is not the only building with zoning issues. Betancourt presented two other buildings his group owns that have the same problem with illegal tenants.

The AION Partners warned Nike, which has a retail space on the first floor at 21 Mercer St., that if the city decided to enforce the zoning regulations, then their lease would have to be ripped up.

"Here in lies the risk. For me as a developer, when we negotiated the lease with Nike, we had to provide them with outs.

"The prospective buyers have trouble getting financing, so what (AION Partners) has to do, because lenders won't lend, is create more elaborate, bigger apartments to attract higher end buyers that are not subject to the limitations of financing. This means cash buyers who don't need to take out a loan," said Betancourt.

This creates a gap between SoHo's historic residents and the global retailers who are moving in. The residents essentially get pushed out.

Margret D. Baisley, an attorney "who specializes in real estate transactions throughout the New York City area," next elaborated on SoHo's strict zoning regulations that require residents to be certified artists to rent out lofts.

"What is clear is that for the most part, people who are living in SoHo are living here illegally," said Baisley. Only about 1200 artists have been certified in the past 30 years. It is clear that artists are not the majority.

To legalize living, a prospective resident would have to find an artist friend to get certified and occupy the space with them, stated Baisley.

"Unfortunately most of my clients come to me and say to me, Margret, how can we live this way? Why do we have to live illegally in a neighborhood that's zoned for a profession that's hardly here anymore?" said Baisley.

Most of the residents Baisley represents want a change. Some want to eliminate the words "for artist" on the certification requirements, keeping the manufacturing zoning.

Others want to get rid of manufacturing zoning. They believe retail should take the first level while the residents rent the higher levels.