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Protecting the Unhoused: Proskauer Files Amicus Brief on Behalf of the Coalition for the Homeless

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In a major victory for unhoused New Yorkers, the New York Court of Appeals recently adopted the analysis of an amicus brief that was filed by Proskauer on behalf of the Coalition for the Homeless. The amicus brief supported the City of New York's defense of a proposed project to convert a midtown Manhattan hotel into a residential facility for homeless adults seeking employment opportunities.

The decision, Matter of West 58th Street Coalition, Inc. v. City of New York, addressed what is known as a "NIMBY" (an acronym for "Not In My Backyard") challenge filed by residents living near the conversion site at issue. The Department of Buildings ("DOB") had granted the building a temporary certificate of occupancy, finding that it conformed to the applicable regulations for its proposed use. The Appellate Division agreed that the DOB's determination had a rational basis, but nevertheless remanded the case to the trial court, finding that further proceedings were necessary to determine whether the building's use was consistent with "general safety and welfare standards." It also certified the decision for review by the Court of Appeals.

In Proskauer's amicus brief for the Coalition for the Homeless, we emphasized that once the DOB rationally determines that a building meets the applicable code requirements under New York law, there is no statutory basis to permit a further "general safety and welfare" inquiry, let alone an objective measure to consistently evaluate such a standard. Allowing this inquiry to go unchallenged would set an alarming and detrimental precedent for many critically-needed yet unpopular building repurpose initiatives, including for other facilities that serve the homeless and indigent. The Court of Appeals agreed that the rational basis determination was conclusive and further proceedings on "general safety and welfare" should not be held.

The decision clarifies that once a court finds a government agency to have made a ruling founded in a rational basis, the challenge to the government decision ends. More importantly, the decision may discourage well-financed neighborhood groups who want to bring NIMBY challenges against crucial public benefit projects in the future.

Proskauer extends its heartfelt congratulations to the Coalition for the Homeless, and looks forward to continuing to support its mission of protecting and empowering vulnerable, unhoused New Yorkers. The Proskauer team included Michael Cardozo, Matthew Morris, and Nicole Sockett, as well as Proskauer alumni Brittany Benavidez and Peter Fishkind, who were instrumental in this victory.

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- **Matthew J. Morris**
  Special Litigation Counsel