



DEPARTMENT OF BUILDINGS
EXECUTIVE OFFICES
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RUDOLPH J. RINALDI, Commissioner

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Issuance #394

OPERATIONS
POLICY AND PROCEDURE NOTICE #4/93

To: Distribution
From: Stewart D. O'Brien
Date: March 10, 1993 3/15/93 SDU
Subject: Implementation of Local Law #6/93, a/k/a "The Padlock Law"

Purpose: To establish operational procedures for the enforcement of Local Law #6/93.

Effective: March 21, 1993

Reference: Administrative Code §26-127.2, amended January 1993, effective March 21, 1993

Specifics: Any commercial or manufacturing use operating in a residential district, contrary to the Zoning Resolution, may be declared a public nuisance and after due process may be closed by order of the Commissioner of Buildings.

- 1) Upon receipt of a complaint regarding a possible illegal commercial or manufacturing use in a residential district, the *borough office* enters it into the complaint system using new complaint category code 74, "Illegal Commercial Use In Residential Area." Within one (1) week of receipt, the borough office researches the complaint to see if the alleged use is or is not allowed, which may include an evaluation of agency records (such as the Certificate of Occupancy, prior complaint history, prior violations, etc.) and/or a review of the Zoning Resolution.
- 2) If the *borough office* determines that an illegal use may be present, or cannot ascertain the legality of the alleged use, the complaint is referred to the Administrative Enforcement Unit (AEU) by entering the complaint disposition "Complaint Assigned To AEU" into the computer. The complaint disposition code is E2. A complaint cannot be referred to AEU until it has been reviewed by the borough office.
- 3) Once a week, the *borough office* forwards copies of the work orders for these complaints, with the background materials (original complaint letter, copies of records, etc.), to AEU.
- 4) The *Administrative Enforcement Unit (AEU)* checks the complaint system (runs a batch program) on a weekly basis to determine those complaints that have been dispositioned by the boroughs as "Complaint Assigned To AEU." This also will serve to verify that the background paperwork on all referrals from the boroughs has been received. From the computer, AEU also can monitor the total number of category code 74 ("Illegal Commercial Use In Residential Area") complaints currently in the boroughs.

- 5) The *borough office* may be requested by AEU to provide supplementary research.
- 6) If the number of referrals from the borough offices exceeds AEU's capacity to initiate actions under Local Law 6, then AEU and the *Intergovernmental Affairs Unit (IAU)*, with the input of the Borough Commissioners, will evaluate the borough referrals and select candidates for further action.
- 7) Any complaint that is referred by AEU back to the borough is to be resolved through the usual procedures for any other type of illegal use complaint. AEU will reassign the complaint to the borough for final resolution using the complaint disposition code E3, "Complaint Assigned To Borough Office For Final Disposition." This complaint must be resolved at the borough level; the borough cannot refer this same complaint back to AEU.
- 8) AEU inspectors visit the premises in question and submit their findings to the Assistant Commissioner of Enforcement and Compliance Division. If the suspected illegal use is confirmed, enforcement proceedings commence (see #9). The complaint disposition A7, "Complaint Accepted For OATH," is entered into the computer. If any other determination is made – for example, "no access" or "no action necessary" – AEU takes appropriate action and enters the correct disposition into the computer to resolve the complaint.
- 9) AEU serves a notice of hearing with respect to an order of closure on the appropriate parties. (See Local Law # 6/93 or Administrative Code §26.127.2(c), revised January 1993, for more details regarding service.)
- 10) AEU conducts a hearing in this matter before the Office of Administrative Trials and Hearings (OATH) which shall submit its proposed findings and recommendations to the Commissioner of Buildings.
- 11) Pursuant to OATH's findings, the *Commissioner of Buildings* may issue an order of closure.
- 12) AEU posts an order of closure on the building, and mails copies to the appropriate parties. A copy of the closure notice is filed with the appropriate county clerk or register, and police precinct. (See Local Law # 6/93 or Administrative Code §26.127.2(g), revised January 1993, for more details regarding notification.)
- 13) AEU updates the complaint system to reflect the resolution of the complaint. AEU also updates the BIS Property Profile actions (index) screen to show that an order of closure, for example – V CLOS040'193 (V CLOSmonthdateyear), was issued.
- 14) Upon written directive of the Commissioner, after the tenth (10th) business day after the closure posting, AEU, with the *Police Department*, shall enforce the order by sealing, padlocking or otherwise preventing access to the premises, without hindering the entrance/exits for any residential parts of the premises not subject to the closure order.
- 15) As necessary, AEU shall call on the General Counsel's office for assistance anytime during this process.
- 16) AEU maintains all keys and padlocks used for the purpose of enforcing Local Law # 6/93. Any owner or property representative of a padlocked premises must contact AEU to gain entry. (Rules regarding the specific procedures for access to closed premises may need to be promulgated.)
- 17) The order of closure shall be rescinded, if at any time after its issuance, the owner, mortgagee or property representative provides satisfactory assurance to the Department that

the illegal use is discontinued and will not recur, or that the premises may be occupied lawfully for commercial or manufacturing use. (Rules regarding required documentation or criteria to rescind closure orders may need to be promulgated.)

- 18) If a closure order is rescinded, upon request of the owner, mortgagee or property representative, *AEU* will provide a copy of the rescission order. The owner, mortgagee or property may file the rescission order with the appropriate county clerk or register, and police precinct. *AEU* also will update the computer system to indicate the rescission by entering an asterisk next to the order of closure: V* CLOSmonthdateyear.

SUMMARY OF NEW COMPUTER CODES

New Complaint Category:

74 - Illegal Commercial Use In Residential Area

New Complaint Dispositions:

E2 - Complaint Assigned To *AEU*

E3 - Complaint Assigned To Borough Office For Final Disposition

A7 - Complaint Accepted For OATH

Order of Closure:

V CLOSmonthdateyear (V CLOS040193)