



Room 4900
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DEMOLITION DIVISION
MUNICIPAL BUILDINGS DEPARTMENT, CITY OF NEW YORK

W. Bryan A. Reardon
Attorney at Law, Corporation Counsel

November 3, 1977

Mr. Phillip Olin
Brooklyn Borough Superintendent
Department of Buildings
Municipal Buildings
Brooklyn, N. Y.

Re: Emergency Demolition
"Operation Black-Out" *dir*

Dear Mr. Olin:

With respect to the demolition of a number of unsafe buildings in Brooklyn, a situation has arisen which requires special attention. The buildings are those damaged in the looting that accompanied the black-out of July 13, 1977. In the case of some of these buildings, statutory unsafe building proceedings were commenced by service of a Notice of Unsafe Building, Order, Notice of Survey and Summons in the usual manner. However, between the date of service of the Notice and the date of the survey fixed in the notice, the City, acting through demolition contractors, demolished the structures.

The surveys, in each of these cases, was held as scheduled, and the surveyors reported that the building was unsafe in that it was demolished. A copy of the Report of Survey in one of these cases is attached as an illustration.

It is a self evident absurdity for surveyors to state in their written report of survey to be submitted to the court, that a building is unsafe in that it has been "demolished". Obviously such reports of survey were ineptly written. Hence, for the purpose of supporting an unsafe building proceeding they cannot be used. Section C26-80.5 of the Administrative Code states that the report of survey, "reduced to writing shall be the issue to be placed before the court for trial."

The same section states that the survey of the premises named in Notice of Unsafe Building "will be made at a time and place therein named in accordance with Section C26-81.5." This latter section provides for the designation of two surveyors by the

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City and a third surveyor by the person served with the Notice, if he so elects. For the City-appointed surveyors to prepare a new report of survey, as has been suggested, and post it on the unsafe building would be, in effect, for them to conduct a new survey without providing the owner or other person served with the Notice an opportunity to have his designated surveyor participate in the new survey and would thus deprive him of a right given him by law.

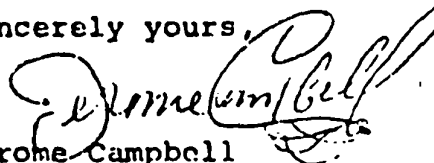
From the above I believe you will understand that it would not be lawful for the two City surveyors to rewrite the reports of survey in these cases so as to insert in them the specific details of the manner in which the premises are unsafe subsequent to the demolition of the unsafe structure.

Consequently, we regret to inform you that all those individual unsafe building cases in which the survey report reads simply "Building demolished", are defective and must be withdrawn. For each of these unsafe premises, a new proceeding must be commenced from the beginning, a new survey held, and a new court date fixed. Special care should be taken that the Buildings Department inspector and the licensed architect or engineer designated by the City to conduct the survey are instructed as to the specifics required in their report of survey. Their report should be written substantially in the following language:

The structure formerly located on the subject premises has been demolished. The following unsafe and dangerous conditions remain on the premises. [here specify such details as the presence of debris, open or improperly filled-in foundation, improper sloping and grading, lack of fencing, etc.]

I want to point out to you that during recent weeks a number of these cases have come on in court. Because of the defective survey reports, we adjourned them. These cases will now have to be withdrawn. Similarly, defective cases, now pending, which have a court date in the future will also have to be withdrawn.

Sincerely yours,



Jerome Campbell
Assistant Corporation Counsel
In Charge

CC: Mr. Irving Minkin
Mr. Gene Badlotto
Mr. Elden Foyt
Dept. of Buildings

Mr. Joseph Halpern
Law Department

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