



DEPARTMENT OF BUILDINGS
EXECUTIVE OFFICES
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Issuance #284

OPERATIONS
POLICY AND PROCEDURES # 6/91

To: Distribution
FROM: Stewart D. O'Brien
DATE: March 4, 1991 3/4/91 SDU
SUBJECT: Operations PPN # 4/87

Effective Date: Immediate

Purpose: To revoke Operations PPN #4/87

Specifics:

Operations PPN #4/87 is revoked. The procedures detailed in Operations PPN #4/87 have been superseded by those outlined in the Department's rule and regulation relating to "Additional Procedures With Respect to Designation of Applications and Plans Submitted By Registered Architects and Licensed Professional Engineers for Limited Supervisory Check", as amended September 13, 1989.

A copy of the rules and regulations is attached.

Attachment

(d) Section C26-1801.3 (a) (2) Firemen service operation in existing elevators.

11. Definition. - An existing 1-1 residential hotel is defined as a single room occupancy multiple dwelling, in which at least seventy-five (75) percent or more of the total number of occupied individual dwelling units:

(a) have been in the same tenancy for at least three (3) years prior to March 27, 1984, or

(b) have been used by a religious, not-for-profit organization as a residency for its members who maintain residency for at least (1) year provided that a fire safety plan for fire drill and evacuation procedures in accordance with the requirements of the Fire Commissioner shall be submitted to the Fire Department and the approval of the Fire Commissioner shall be obtained.

Dated August 19, 1985
New York, N.Y.

Charles M. Smith, Jr., R.A.
Commissioner

Filed with the City Clerk: August 21, 1985
Published in the City Record: August 27, 1985
Effective Date: September 26, 1985

RULES AND REGULATIONS RELATING TO ADDITIONAL PROCEDURES WITH RESPECT TO DESIGNATION OF APPLICATIONS AND PLANS SUBMITTED BY REGISTERED ARCHITECTS AND LICENSED PROFESSIONAL ENGINEERS FOR LIMITED SUPERVISORY CHECK.

Amended: September 13, 1989

1.0 PURPOSE.

1-1. Pursuant to Section 27-143 of the Administrative Code, the Department of Buildings has established procedures for limited supervisory check of applications and plans submitted by registered architects and licensed professional engineers. In general, these procedures have benefitted both the construction industry and the general public by expediting departmental review without sacrifices to public safety. While the vast majority of architects and engineers have justified the confidence which the Department has in their professionalism, there have been occasions when the laws which govern construction in the City have been disregarded, threatening public safety. The purpose of these regulations, which amend regulations promulgated by the department and effective February 9, 1986, is to protect the safety and integrity of the procedures for limited supervisory check by assuring that such disregard is not permitted to continue.

2.0 GROUNDS FOR EXCLUSION.

2-1. The Commissioner hereby authorizes the Department's Investigatory Disciplinary Unit, after consultation with appropriate Departmental Technical Staff, to pre-

Amended effective September 13, 1989

Revised 9/1/89

fer administrative charges against any registered architect or licensed professional engineer where investigation reveals violation of any of the following:

2-1.1. Applications, plans, certifications or reports submitted by the architect or engineer demonstrate such a lack of knowledge of the Building Code, Multiple Dwelling Law, Zoning Resolution and/or Labor Law, that in the interest of public safety and welfare the applications and plans submitted by such architect or engineer should be subject to full review by the Department; or

2-1.2. The architect or engineer has submitted applications, plans, certifications or reports to the Department which were required to be prepared by him or her or under his or her supervision but which were not prepared by him or her or under his or her supervision, or the architect or engineer engages in any conduct evidencing a delegation of professional responsibilities to a person where the architect or engineer knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them; or

2-1.3. The architect or engineer has knowingly or negligently made false or misleading statements or knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application or report filed with the Department, or knowingly failed to file a report required by law or the Department or willfully impeded or obstructed such filing, or induced another person to do so; or

2-1.4. The architect or engineer has been convicted of a criminal offense where the underlying act arises out of his professional occupation or business dealings with the City of New York.

3.0 PROCEDURES.

3-1. Written notice of the basis for such action to exclude from limited supervisory check shall be served on the architect or engineer pursuant to the provisions of New York State Civil Practice Law and Rules § 308.

3-2. If the Commissioner finds that continued use of the procedures for limited supervisory check by the architect or engineer would be likely to create a condition of imminent peril to public safety, the Commissioner's determination shall be effective immediately.

3-3. On and after the effective date of the determination, whether after hearing as provided in section 3.1 or immediate suspension pursuant to section 3.2 of these Regulations, as the case may be, any or all of the applications and plans submitted by the architect or engineer shall be subject to full review by the Department.

4.0 HEARING.

4-1. Upon a filing of the administrative charges, the architect or engineer will be scheduled for a hearing on the determination by submitting written objection to the determination and the grounds for such objection to the Commissioner within fifteen days after the date that the notice of determination is served.

4-2. The hearing will be held at the Office of Administrative Trials and Hearings, 20 Vesey Street, New York, New York 10007. Pursuant to section 3-2 of these regulations, if the Commissioner's determination was effective immediately, the hearing shall be scheduled expeditiously with due consideration given to the current calendar at the Office of Administrative Trials and Hearings.

4-3. The architect or engineer may be represented by counsel and may present evidence in his or her behalf. A transcribed or tape-recorded record shall be kept of the hearing.

...the conclusion of the hearing. If the Commissioner confirms the determination such notice shall include a written statement indicating the reason for his or her decision. The decision of the Commissioner shall be supported by substantial evidence.

5.0. REVIEW OF DETERMINATION.

5-1. At the expiration of one year from the date of the initial determination to exclude an architect or engineer from participation in the procedures for limited supervisory check of applications and plans, and at intervals of no more than six months thereafter, upon request of the architect or engineer, the Commissioner shall re-examine such determination. If the architect or engineer has not committed any of the acts described in subdivisions two or three of section two above during such period and applications and plans submitted by him or her during such period which were subject to complete examination by the Department demonstrate adequate knowledge of the Building Code, Multiple Dwelling Law, Labor Law and the Zoning Resolution and the Commissioner determines that it would be in the public interest to do so, he or she may rescind such determination. In making such decision, the Commissioner may consider any relevant documents submitted by the applicant bearing on his or her capability to resume participation in the procedures for limited supervisory check.

Dated January 7, 1986
New York, New York

Charles M. Smith, Jr., R.A.
Commissioner

Filed with the City Clerk: January 8, 1986
Published in the City Record: January 10, 1986
Effective Date: February 9, 1986

**DEPARTMENT OF BUILDINGS' REGULATIONS RELATIVE
TO ENVIRONMENTAL CONTROL BOARD ADJUDICATION**

Section 1: Jurisdiction

1. Any violation(s) of Title(s) A, B and/or C of Chapter 26 of the Administrative Code, or violation of the Zoning Resolution of the City of New York, or violation of the other rules and regulations of the Department of Buildings may be adjudicated at the Environmental Control Board except:

- (1) Any provision of the Administrative Code relating to the conversion of a dwelling which is legally approved as a dwelling for one family to a dwelling for two families or a dwelling that is legally approved as a dwelling for two families to a dwelling for three families.
- (2) Paragraph (6) or (7) of subdivision (c) of Section C26-504.1.
- (3) Subdivision (c) of Section C26-504.13.
- (4) Section 2-4 or 4-4 of Building Code Reference Standard BS 13-1.
- (5) Paragraph (12) of subdivision (f) of Section C26-1704.5.

*Amended effective May 11, 1988.

- (6) Paragraph (10) of subdivision (g) of Section C26-1704.5
- (7) Subdivision (c) of Section C26-1704.8
- (8) Subdivision (c) of Section C26-1705.8
- (9) Section C26-121.2
- (10) Section C26-1703-1.
- (11) Any provision of the Administrative Code, Zoning Resolution or other rule or regulation relating to the placement, size or display of outdoor signs except for those provisions contained in Article Seven of Title II of Chapter Twenty-Five of the Administrative Code.

Section 2: Schedule of Civil Penalties

2.1 Pursuant to Section 64(a)-12.1(d) of the Administrative Code, the Commissioner hereby establishes maximum civil penalties for violations of Code and/or Rule based on the degree of seriousness of the violation but not exceeding the statutory maximums.

2.2 Hazardous violations shall be clearly marked "Hazardous" on the E.C.B. Notice of Violation and subject to the maximum penalties provided in Administrative Code Section 64(a)-12.1(a).

2.3 The minimum penalty for a first offense violation is zero.

2.4 The maximum penalty for first offense shall be determined in accordance with the following schedule:

***241 BOILER VIOLATIONS**

Failure to maintain a boiler in a safe condition or good working order is a violation of Section 27-127 and Subchapter 14, of Chapter 1, of Title 27 of the Administrative Code. The maximum penalty for any boiler violation shall be the amount designated for the violating condition listed below. If more than one violating condition is contained on the notice of violation, the penalty for the condition which has the greater amount shall apply. These penalties do not apply if the condition created by the violation is found to be hazardous.

**Penalty
(Dollars)**

- 1. 125 Boiler base: (c) corroded (b) weakened
- 2. 125 Boiler room firedoor: (a) does not open towards egress (b) not self-closing (c) missing
- 3. 125 Boiler not ready for inspection
- 4. 125 Boiler not registered
- 5. 250 Boiler sections: (a) leaking (b) cracked
- 5. 125 Boiler sections: (c) excessive soot
- 6. 250 Push nipples: leaking
- 7. 500 Boiler - H.P.: no licensed engineer
- 8. 250 Boiler blowdown valve: (a) missing (b) defective (c) leaking