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DOI ISSUES REPORT ON INSPECTIONAL ISSUES RELATING TO FATAL FIRE AT 130 LIBERTY STREET
--Joint Investigation with FDNY and DOB identifies "missed opportunities"
and recommends improved supervision--

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation ("DOI"), announced today that DOI has issued a report of its findings and recommendations following a joint investigation with the New York City Fire Department ("FDNY") and the New York City Department of Buildings ("DOB") of those two agencies' inspectional performance at 130 Liberty Street in the months preceding the fire of August 18, 2007, where two firefighters died.

DOI Commissioner Rose Gill Hearn said, "Last December, three individual construction supervisors and one corporation were charged with criminal responsibility for the deaths of two City firefighters at 130 Liberty Street. But as today's report shows, the City has also confronted and is addressing the administrative failings of its own inspectional forces, whose efforts proved no match for the contractors' cavalier disregard for public safety. This is a necessary task, because as long as developers tolerate and employ irresponsible contractors, we must rely on our inspectors to keep us from harm. I want to thank Commissioners Scoppetta and LiMandri and their staffs for their assistance and cooperation."

FDNY Commissioner Nicholas Scoppetta said, "I want to thank Commissioner Gill Hearn and her staff at DOI, along with members of FDNY's Bureau of Investigations and Trials and the Department of Buildings, for their collaborative efforts in producing this thorough and comprehensive report. I will carefully review the findings and recommendations in the report both for suggestions on how to make further improvements to our revamped building inspection program, and as the basis for any disciplinary actions that may be warranted."

DOB Commissioner Robert LiMandri said, "Since the day of this tragic fire, we have worked closely with the Fire Department and other City agencies to make sure something like this can never happen again. As a result, there is more industry oversight and more cross training among firefighters, building inspectors and DEP inspectors. I would like to thank Commissioner Gill Hearn and her staff for their diligent work, and I look forward to reviewing the report and its recommendations so we can continue to improve our inspection procedures and increase the safety of construction sites across the City."

In gathering the facts, investigators reviewed thousands of records, including City rules and regulations for FDNY and DOB, inspectional reports, internal emails and memoranda and interviewed more than 60 FDNY and DOB employees.

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The investigation of administrative issues found that

- FDNY did not inspect the site between March 2007, when demolition commenced, and the date of the fire.
- A FDNY rule required inspections every 15 days, but the various officers responsible for inspections of 130 Liberty Street in 2007, from the local fire company through the battalion and division, either disregarded or were unaware of the rule.
- Inspectional practices varied among individual FDNY officers: two officers previously assigned to the local fire company conducted at least 14 inspections of 130 Liberty Street between May 2004 and March 2006, but their successors conducted none.
- Injuries, debris that fell on and damaged the adjacent firehouse, and other incidents resulted in various FDNY responses to 130 Liberty Street in the months preceding the fire but no inspections.
- FDNY's senior executives understood the importance of demolition inspections in ensuring firefighters' safety, but they were unaware of or did not address their subordinates' noncompliance with inspectional rules. A lack of communication up and down the chain of command meant that the importance of compliance was not communicated and reinforced to the lower ranks.
- DOB created a unit in early 2007 to inspect construction and demolition sites in lower Manhattan and stationed inspectors at 130 Liberty Street on a full-time basis but never provided specialized training or specific instructions to the inspectors, whose levels of experience varied.
- DOB's two management-level inspectors overseeing lower Manhattan met periodically with the inspectors responsible for 130 Liberty Street but did not know and never asked what in particular they were checking. One said that he "imagined" that the inspectors were tracing the standpipe in the basement and "thought" they knew what they were looking at but, in hindsight, realized that he was mistaken.
- On June 25, 2007, two months before the fatal fire, a DOB inspector discovered a breach and a plank of wood in the standpipe at an upper floor of 130 Liberty Street and, he later told DOI, advised one of the two management-level DOB inspectors mentioned above that the contractor, Bovis Lend Lease LMB, Inc., should be required to repair and hydrostatically test the standpipe to make sure that it was functioning. The upper-floor breach was repaired, but the standpipe was not tested. According to the Manhattan District Attorney's report, the catastrophic failure of the standpipe was the result of its being cut during the fall of 2006, when a 42-foot section in the basement was removed. While the plank of wood in the standpipe identified on June 25, 2007 was therefore not the cause of the catastrophic failure of the standpipe, a full test of the standpipe at that time should have revealed the pre-existing 42-foot breach. Not conducting the pressure test on June 25, 2007, which a DOB inspector thought should have been done, was a "serious missed opportunity" to discover the other issues that then existed with the standpipe.
- DOB inspectors assigned to the unit for lower Manhattan never inspected the standpipe system in the basement of 130 Liberty Street or the planks of wood covered in polyethylene sheeting that served as containment barriers in the stairwells in the months preceding the fire, attributing their failure to do so to instructions they received to stay out of asbestos-contaminated and abatement areas, which they believed were the exclusive province of environmental inspectors, and a general lack of knowledge and instruction concerning the standpipe system and its significance.

The City, including the FDNY and DOB, has implemented reforms in the aftermath of the fatal fire:

- The Mayor's Office convened a Task Force to improve the safety of construction, demolition and abatement operations in the City. Last year, the Task Force issued more than 30 recommendations to strengthen City agencies' procedures. Implemented recommendations include cross-training of FDNY, DOB and Department of Environmental Protection (DEP) inspectors, common inspection protocols, and regular inter-agency sharing of computerized and other information.
- FDNY has established a computer notification system that will alert firehouses to buildings (including buildings under construction and demolition) that must be inspected.
- DOB implemented various measures at 130 Liberty Street to ensure standard, documented inspections of key safety components, such as the standpipe system, cranes, hoists, and egress, and the enforcement of no-smoking rules.

DOI's report recommends additional reforms, including the following:

- FDNY should designate a Compliance Officer reporting to its executive level who will ensure that all rules are reasonable, practical, and enforced. Remarkably, several FDNY officers attributed their failures to inspect 130 Liberty Street to ignorance of the 15-day inspection rule and their professed belief that FDNY rules were too numerous to be known or followed by FDNY officers. Members throughout the Department should be told that they can and must contact the Compliance Officer when they know a rule is not being consistently carried out.
- FDNY scheduling practices for officers, which, under existing collective bargaining agreements, impair supervisory continuity and accountability, should be examined and reconsidered.
- DOB should implement and distribute a uniform DOB site safety log sheet and checklist of the items that contractors' site safety managers must inspect and document daily, such as the standpipe, stairwells, means of egress, guardrails, horizontal safety netting, and housekeeping.
- DOB should remind all inspectors that they must review the site safety manager's log during all applicable inspections, an existing requirement that the investigation revealed was disregarded at 130 Liberty Street.
- DOB supervisors should be expected to provide more active and meaningful supervision and guidance to their inspectors than they did in relation to 130 Liberty Street. DOB supervisors should ensure that their inspectors thoroughly understand each site they inspect, including their respective safety and environmental issues and the proper inspectional procedures to address them. DOB should draft written guidelines for supervisors, as other agencies have done, to ensure that inspections are properly planned, conducted, documented, and monitored. The guidelines should provide for supervisors' regular meetings with inspectors, regular review of inspectors' performance and reports, and follow-up meetings to ensure that safety issues are identified, addressed, and resolved.

DOI is one of the oldest law-enforcement agencies in the country. The agency investigates and refers for prosecution City employees and contractors engaged in corrupt or fraudulent activities or unethical conduct. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City.

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