

4770

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. BRENNAN, MARKEY, ROSENTHAL, HEVESI, BROOK-KRASNY, LANCMAN, PERALTA, LENTOL, MILLMAN, MAISEL, BING, CLARK, COLTON, CAMARA, BENEDETTO, CYMBROWITZ, PHEFFER, GOTTFRIED, ROBINSON, DINOWITZ, GREENE, JAFFEE -- Multi-Sponsored by -- M. of A. GLICK, JACOBS, JOHN, V. LOPEZ, NOLAN, PERRY -- read once and referred to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to enacting the New York city department of buildings community accountability act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that the health and safety of the population living in and
3 around the many construction projects within the densely populated city
4 of New York is a matter of state concern as pressure mounts to build
5 more and more while completing projects in the shortest time possible.
6 Construction is the most dangerous occupation, with death rates four
7 times the average for other workers and conditions adjacent to
8 construction sites dangerous to the public.
9 A comprehensive public reporting system for the tracking of accidents,
10 vacate orders, safety violations, and enforcement actions of the depart-
11 ment of buildings is an essential component of assuring greater account-
12 ability and transparency in assuring compliance with the building code
13 and the zoning resolution to improve public safety.
14 S 2. This act shall be known and may be cited as the "New York city
15 department of buildings community accountability act".
16 S 3. Section 28-103.18.1 of the administrative code of the city of New
17 York, as added by local law number 33 of the city of New York for the
18 year 2007, is amended to read as follows:
19 S28-103.18.1 Complaint records. The department shall keep records of
20 complaints made by any person in reference to any building or other

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 matter under the jurisdiction of the department. Recorded complaints
2 shall include the name and residence of the complainant, the name of the
3 person complained of, the date of the entry of the complaint and any
4 suggested remedies. Except for entries of names and residences of the
5 complainants, such records shall be made available for public examina-
6 tion. RECORDS ON ACCIDENTS, UNSAFE BUILDING ORDERS, AND VACATE ORDERS
7 SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY
8 THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER
9 SHALL PRESCRIBE.

10 S 4. The administrative code of the city of New York is amended by
11 adding a new section 28-103.18.2 to read as follows:

12 S 28-103.18.2 RECORDS OF CONSTRUCTION AND BUILDING ACCIDENTS. THE
13 DEPARTMENT SHALL MAINTAIN A RECORD OF ALL CONSTRUCTION AND BUILDING
14 ACCIDENTS RESULTING IN EITHER INJURY OR DEATH TO PERSONS OR DAMAGE TO
15 PROPERTY ARISING OUT OF VIOLATIONS OF THE BUILDING CODE. SUCH RECORD
16 SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY
17 THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER
18 SHALL PRESCRIBE. THE COMMISSIONER SHALL CAUSE SUCH ACCIDENTS TO BE
19 INVESTIGATED AND A WRITTEN REPORT PREPARED REGARDING THE CIRCUMSTANCES
20 OF THE ACCIDENT.

21 S 5. The administrative code of the city of New York is amended by
22 adding a new section 28-201.5 to read as follows:

23 S 28-201.5 MONTHLY REPORTS TO COMMUNITY BOARDS AND BOROUGH PRESIDENTS.
24 THE DEPARTMENT SHALL PROVIDE A MONTHLY REPORT ON DEPARTMENT ACTIONS TO
25 EACH COMMUNITY BOARD, FOR DEPARTMENT ACTIONS WITHIN SUCH BOARD, AND TO
26 THE BOROUGH PRESIDENTS, FOR ACTIONS IN THE BOROUGH OF EACH BOROUGH PRES-
27 IDENT. SUCH REPORT SHALL INCLUDE THE STATUS OF ALL VIOLATIONS, BOTH
28 ENVIRONMENTAL CONTROL BOARD AND DEPARTMENT VIOLATIONS, ISSUED WITHIN THE
29 RESPECTIVE COMMUNITY BOARD AND BOROUGH. THE REPORT SHALL SHOW ALL
30 OUTSTANDING VIOLATIONS, VIOLATIONS CORRECTED DURING THE MONTH, ENFORCE-
31 MENT ACTIONS COMMENCED, AND THE DISPOSITION OF ENFORCEMENT ACTIONS,
32 WITHIN THE PERIOD. SUCH ENFORCEMENT ACTIONS SHALL INCLUDE COURT ACTIONS,
33 PADLOCK ORDERS, EMERGENCY REPAIR ORDERS, AND ENVIRONMENTAL CONTROL BOARD
34 ACTIONS AND ORDERS, INCLUDING FINES AND PENALTIES. THE REPORT SHALL
35 FURTHER SHOW ALL UNSAFE BUILDING ORDERS, VACATE ORDERS, AND STOP WORK
36 ORDERS. SUCH REPORT SHALL BE PROVIDED TO THE BOARDS AND THE BOROUGH
37 PRESIDENTS IN A CLEAR AND CONSISTENT FORMAT TO ENABLE A COMPLETE AND
38 ACCURATE TRACKING OF DEPARTMENT ACTIONS.

39 S 6. The administrative code of the city of New York is amended by
40 adding a new section 28-207.6 to read as follows:

41 S 28-207.6 INVESTIGATION AND REPORT; DANGEROUS BUILDING, NUISANCE AND
42 ORDER TO VACATE. WHENEVER THE DEPARTMENT HAS ISSUED AN ORDER REGARDING
43 ANY DANGEROUS BUILDING, PLACE, OR THING, OR ANY NUISANCE, OR ANY ORDER
44 TO VACATE ANY BUILDING, STRUCTURE, PLACE, OR PREMISES, OR FOR ANY SUCH
45 BUILDING, STRUCTURE, PLACE, OR PREMISES TO BE SEALED AND/OR SECURED, THE
46 COMMISSIONER SHALL CAUSE THE CIRCUMSTANCES REGARDING SUCH ORDER TO BE
47 INVESTIGATED, AND A WRITTEN REPORT PREPARED. SUCH REPORT SHALL BE AVAIL-
48 ABLE FOR PUBLIC EXAMINATION, AND POSTED ON THE DEPARTMENT'S INFORMATION
49 WEBSITE MAINTAINED BY THE CITY OF NEW YORK, PURSUANT TO SUCH REGULATIONS
50 AS THE COMMISSIONER MAY PRESCRIBE.

51 S 7. Section 28-118.1 of the administrative code of the city of New
52 York, as added by local law number 33 of the city of New York for the
53 year 2007, is amended to read as follows:

54 S 28-118.1 General provisions. No building or open lot shall be used
55 or occupied without a certificate of occupancy issued by the commission-
56 er. Issuance of a certificate of occupancy shall not be construed as an

1 approval of a violation of the provisions of this code or of other
2 applicable laws and rules.

3 NO CERTIFICATE OF OCCUPANCY SHALL BE ISSUED FOR A NEW OR ALTERED
4 BUILDING UNLESS PAYMENT HAS BEEN MADE OF ALL OUTSTANDING FINES, PENAL-
5 TIES, AND JUDGMENTS ARISING OUT OF DEPARTMENT VIOLATIONS ASSOCIATED WITH
6 THE PROPERTY, INCLUDING BUT NOT LIMITED TO VIOLATIONS ISSUED IN
7 CONNECTION WITH ANY CONSTRUCTION, EXCAVATION OR DEMOLITION WORK.

8 S 8. The administrative code of the city of New York is amended by
9 adding a new section 28-104.9 to read as follows:

10 S 28-104.9 COMMUNITY BOARD NOTIFICATION OF PLAN APPROVAL. 1. A. WHEN
11 AN APPLICATION FOR APPROVAL OF PLANS SUBMITTED TO THE DEPARTMENT HAS
12 BEEN APPROVED FOR A NEW BUILDING, THE DEPARTMENT SHALL NOTIFY THE COMMU-
13 NITY BOARD AND THE BOROUGH PRESIDENT OF THE BOROUGH WHERE THE NEW BUILD-
14 ING SHALL BE LOCATED OF THE DOCKET AND ITS NUMBER FOR SUCH PLAN, AND THE
15 ADDRESS WHERE THE BUILDING IS TO BE BUILT. UPON THE REQUEST OF THE
16 COMMUNITY BOARD, THE DEPARTMENT SHALL FURNISH, AND PROVIDE A REGULAR
17 UPDATE, OF THE COMPLETE DOCKET OF THE PROJECT, INCLUDING ALL PLANS AND
18 DRAWINGS, PERMITS, AMENDMENTS TO THE PLAN, AUDITS, OBJECTIONS, AND SUCH
19 OTHER MATERIAL AS SHALL COMPRISE THE DOCKET OF SAID PROJECT.

20 B. THE DEPARTMENT SHALL FURNISH THE COMPLETE DOCKET OF THE PROJECT
21 WITHIN FIVE BUSINESS DAYS OF SAID REQUEST, AND EACH ADDITIONAL DOCUMENT
22 ADDED TO THE DOCKET WITHIN FIVE DAYS OF SUCH ADDITION.

23 2. A. THE COMMUNITY BOARD IN WHICH ANY NEW BUILDING PROJECT IS
24 LOCATED, IN CONSULTATION WITH THE BOROUGH PRESIDENT IN THE BOROUGH OF
25 THE LOCATION OF SUCH PROJECT, MAY REQUEST IN WRITING AND UPON A VOTE OF
26 THE BOARD, AN AUDIT-REVIEW OF UP TO THIRTY PLANS PER YEAR BY THE DEPART-
27 MENT, WHICH THE DEPARTMENT SHALL BE OBLIGATED TO CONDUCT. THE DEPARTMENT
28 SHALL PROVIDE THE BOARD AND THE BOROUGH PRESIDENT THE RESULTS OF SUCH
29 AUDIT-REVIEW INCLUDING ANY OBJECTIONS TO THE PLAN PROVIDED TO THE APPLI-
30 CANT. THE DEPARTMENT SHALL FURNISH A PRELIMINARY REPORT TO THE BOARD AND
31 THE BOROUGH PRESIDENT WITHIN THIRTY DAYS, AND A FINAL REPORT WITHIN
32 SIXTY DAYS, OF WHETHER THE PLAN COMPLIES WITH THE BUILDING CODE AND THE
33 ZONING RESOLUTION.

34 B. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT REQUESTS FOR
35 AUDITS, REVIEWS, OR OTHER ACTIONS BY THE DEPARTMENT, BY COMMUNITY BOARDS
36 OR BOROUGH PRESIDENTS.

37 3. WHERE THE DEPARTMENT IS AUDITING AND REVIEWING ANY APPROVED PLAN,
38 ANY NOTICE OF OBJECTIONS TO THE PLAN SHALL BE PUBLISHED ON THE DEPART-
39 MENT OF BUILDINGS INFORMATION WEBSITE MAINTAINED BY THE CITY OF NEW
40 YORK.

41 4. WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE
42 DEPARTMENT SHALL PROMULGATE STANDARDS FOR ALLOWING PERMITTED WORK TO
43 CONTINUE WHEN OBJECTIONS TO APPROVED PLANS BY THE DEPARTMENT OCCUR. THE
44 ADOPTION OF SUCH STANDARDS SHALL BE SUBJECT TO CHAPTER FORTY-FIVE OF THE
45 NEW YORK CITY CHARTER.

46 S 9. Section 28-105.1 of the administrative code of the city of New
47 York, as added by local law number 33 of the city of New York for the
48 year 2007, is amended to read as follows:

49 S 28-105.1 General. 1. It shall be unlawful to construct, enlarge,
50 alter, repair, move, demolish, remove or change the use or occupancy of
51 any building or structure in the city, or to erect, install, alter,
52 repair, or use or operate any sign or service equipment in or in
53 connection therewith, or to erect, install, alter, repair, remove,
54 convert or replace any gas, mechanical, plumbing or fire suppression
55 system in or in connection therewith or to cause any such work to be
56 done unless and until a written permit therefore shall have been issued

1 by the commissioner in accordance with the requirements of this code,
2 subject to such exceptions and exemptions as may be provided in section
3 28-105.4.

4 2. THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE BY COMMUNITY BOARD,
5 NOTICE OF PERMITS GRANTED FOR ANY NEW BUILDING, FOUNDATION AND EARTH-
6 WORK, ALTERATION, AND ANY DEMOLITION AND REMOVAL, INCLUDING THE ADDRESS
7 OF THE PROJECT WHERE THE PERMIT HAS BEEN GRANTED. THE DEPARTMENT SHALL
8 PROVIDE ACCESS TO OR FURNISH A COPY OF THE PERMIT AND OTHER DOCUMENTS
9 WITHIN THE DOCKET ESTABLISHED FOR THE PROJECT, EITHER ELECTRONICALLY OR
10 BY OTHER MEANS, UPON REQUEST AND SHALL MAKE SUCH DOCUMENTS AVAILABLE
11 WITHIN FIVE BUSINESS DAYS OF SUCH REQUEST. THE DEPARTMENT MAY WITHHOLD
12 PLANS FOR PARTICULAR BUILDINGS AT THE REQUEST OF LAW ENFORCEMENT AGEN-
13 CIES.

14 S 10. The administrative code of the city of New York is amended by
15 adding a new section 28-110.3 to read as follows:

16 S 28-110.3 PRESENCE OF SITE SAFETY COORDINATOR REQUIRED. A SITE SAFETY
17 COORDINATOR SHALL BE PRESENT ON ANY SITE OF CONSTRUCTION OF A NEW BUILD-
18 ING IN EXCESS OF FIVE STORIES IN HEIGHT, PURSUANT TO DEPARTMENT REGU-
19 LATIONS.

20 S 11. This act shall take effect July 1, 2009.