S T A T E O F N E W Y O R K

2252

2009-2010 Regular Sessions

I N S E N A T E

February 17, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed 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:

Section 1. Legislative findings. The legislature hereby finds and declares that the health and safety of the population living in and around the many construction projects within the densely populated city of New York is a matter of state concern as pressure mounts to build more and more while completing projects in the shortest time possible. Construction is the most dangerous occupation, with death rates four times the average for other workers and conditions adjacent to construction sites dangerous to the public.

A comprehensive public reporting system for the tracking of accidents, vacate orders, safety violations, and enforcement actions of the department of buildings is an essential component of assuring greater accountability and transparency in assuring compliance with the building code and the zoning resolution to improve public safety.

S 2. This act shall be known and may be cited as the "New York city department of buildings community accountability act".

S 3. Section 28-103.18.1 of the administrative code of the city of New York, as added by local law number 33 of the city of New York for the year 2007, is amended to read as follows:

S28-103.18.1 Complaint records. The department shall keep records of complaints made by any person in reference to any building or other matter under the jurisdiction of the department. Recorded complaints shall include the name and residence of the complainant, the name of the person complained of, the date of the entry of the complaint and any suggested remedies. Except for entries of names and residences of the

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

LBD07226-01-9

complainants, such records shall be made available for public examination. RECORDS ON ACCIDENTS, UNSAFE BUILDING ORDERS, AND VACATE ORDERS SHALL BE POSTED ON THE DEPARTMENT'S INFORMATION WEBSITE MAINTAINED BY THE CITY OF NEW YORK, SUBJECT TO SUCH REGULATIONS AS THE COMMISSIONER SHALL PRESCRIBE.

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

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

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

S 28-201.5 MONTHLY REPORTS TO COMMUNITY BOARDS AND BOROUGH PRESIDENTS. THE DEPARTMENT SHALL PROVIDE A MONTHLY REPORT ON DEPARTMENT ACTIONS TO EACH COMMUNITY BOARD, FOR DEPARTMENT ACTIONS WITHIN SUCH BOARD, AND TO THE BOROUGH PRESIDENTS, FOR ACTIONS IN THE BOROUGH OF EACH BOROUGH PRESIDENT. SUCH REPORT SHALL INCLUDE THE STATUS OF ALL VIOLATIONS, BOTH ENVIRONMENTAL CONTROL BOARD AND DEPARTMENT VIOLATIONS, ISSUED WITHIN THE RESPECTIVE COMMUNITY BOARD AND BOROUGH. THE REPORT SHALL SHOW ALL OUTSTANDING VIOLATIONS, VIOLATIONS CORRECTED DURING THE MONTH, ENFORCEMENT ACTIONS COMMENCED, AND THE DISPOSITION OF ENFORCEMENT ACTIONS, WITHIN THE PERIOD. SUCH ENFORCEMENT ACTIONS SHALL INCLUDE COURT ACTIONS, PADLOCK ORDERS, EMERGENCY REPAIR ORDERS, AND ENVIRONMENTAL CONTROL BOARD ACTIONS AND ORDERS, INCLUDING FINES AND PENALTIES. THE REPORT SHALL FURTHER SHOW ALL UNSAFE BUILDING ORDERS, VACATE ORDERS, AND STOP WORK ORDERS. SUCH REPORT SHALL BE PROVIDED TO THE BOARDS AND THE BOROUGH PRESIDENTS IN A CLEAR AND CONSISTENT FORMAT TO ENABLE A COMPLETE AND ACCURATE TRACKING OF DEPARTMENT ACTIONS.

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

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

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

S 28-118.1 General provisions. No building or open lot shall be used or occupied without a certificate of occupancy issued by the commissioner. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other applicable laws and rules.

NO CERTIFICATE OF OCCUPANCY SHALL BE ISSUED FOR A NEW OR ALTERED BUILDING UNLESS PAYMENT HAS BEEN MADE OF ALL OUTSTANDING FINES, PENAL-

TIES, AND JUDGMENTS ARISING OUT OF DEPARTMENT VIOLATIONS ASSOCIATED WITH THE PROPERTY, INCLUDING BUT NOT LIMITED TO VIOLATIONS ISSUED IN CONNECTION WITH ANY CONSTRUCTION, EXCAVATION OR DEMOLITION WORK.

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

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

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

2. A. THE COMMUNITY BOARD IN WHICH ANY NEW BUILDING PROJECT IS LOCATED, IN CONSULTATION WITH THE BOROUGH PRESIDENT IN THE BOROUGH OF THE LOCATION OF SUCH PROJECT, MAY REQUEST IN WRITING AND UPON A VOTE OF THE BOARD, AN AUDIT-REVIEW OF UP TO THIRTY PLANS PER YEAR BY THE DEPARTMENT, WHICH THE DEPARTMENT SHALL BE OBLIGATED TO CONDUCT. THE DEPARTMENT SHALL PROVIDE THE BOARD AND THE BOROUGH PRESIDENT THE RESULTS OF SUCH AUDIT-REVIEW INCLUDING ANY OBJECTIONS TO THE PLAN PROVIDED TO THE APPLICANT. THE DEPARTMENT SHALL FURNISH A PRELIMINARY REPORT TO THE BOARD AND THE BOROUGH PRESIDENT WITHIN THIRTY DAYS, AND A FINAL REPORT WITHIN SIXTY DAYS, OF WHETHER THE PLAN COMPLIES WITH THE BUILDING CODE AND THE ZONING RESOLUTION.

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

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

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

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

S 28-105.1 General. 1. It shall be unlawful to construct, enlarge, alter, repair, move, demolish, remove or change the use or occupancy of any building or structure in the city, or to erect, install, alter, repair, or use or operate any sign or service equipment in or in connection therewith, or to erect, install, alter, repair, remove, convert or replace any gas, mechanical, plumbing or fire suppression system in or in connection therewith or to cause any such work to be done unless and until a written permit therefore shall have been issued by the commissioner in accordance with the requirements of this code, subject to such exceptions and exemptions as may be provided in section 28-105.4.

2. THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE BY COMMUNITY BOARD, NOTICE OF PERMITS GRANTED FOR ANY NEW BUILDING, FOUNDATION AND EARTHWORK, ALTERATION, AND ANY DEMOLITION AND REMOVAL, INCLUDING THE ADDRESS OF THE PROJECT WHERE THE PERMIT HAS BEEN GRANTED. THE DEPARTMENT SHALL PROVIDE ACCESS TO OR FURNISH A COPY OF THE PERMIT AND OTHER DOCUMENTS WITHIN THE DOCKET ESTABLISHED FOR THE PROJECT, EITHER ELECTRONICALLY OR BY OTHER MEANS, UPON REQUEST AND SHALL MAKE SUCH DOCUMENTS AVAILABLE WITHIN FIVE BUSINESS DAYS OF SUCH REQUEST. THE DEPARTMENT MAY WITHHOLD PLANS FOR PARTICULAR BUILDINGS AT THE REQUEST OF LAW ENFORCEMENT AGENCIES.

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

S 28-110.3 PRESENCE OF SITE SAFETY COORDINATOR REQUIRED. A SITE SAFETY COORDINATOR SHALL BE PRESENT ON ANY SITE OF CONSTRUCTION OF A NEW BUILDING IN EXCESS OF FIVE STORIES IN HEIGHT, PURSUANT TO DEPARTMENT REGULATIONS.

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