



NYC Buildings Department
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Robert D. LiMandri, Commissioner



BUILDINGS BULLETIN 2009-002

Technical

Supersedes: None

Issuer: Fatma M. Amer, P.E.
First Deputy Commissioner

Issuance Date: March 13, 2009

Purpose: This document clarifies the Department of Buildings' authority to waive or modify prescriptive provisions of the Multiple Dwelling Law ("MDL") or import definitions of terms such as "height" and "story" from the building code into the MDL.

Related Code Section(s):

MDL 4.35	MDL 4.36	MDL 211 (height and bulk)
(definition of height)	(definition of story)	

Subject(s): Multiple Dwellings, alteration;
Multiple Dwellings, height;
Multiple Dwellings, variation;
Multiple Dwellings, modify;

The Board of Standards and Appeals ("BSA") has issued a pair of decisions¹ holding that the Department of Buildings ("the department") may not approve heights in excess of the prescribed limits of Multiple Dwelling Law ("MDL") section 211, even if the department conditionally requires additional fire safety measures such as automatic sprinkler systems. Further, the decisions hold that where terms such as "height" and "story" are defined in MDL, such definitions of the same terms cannot be imported from the building code into the MDL because the MDL has contrary definitions of these terms.

Effective immediately, examiners shall not waive or modify any applicable prescriptive provisions of the MDL, even where the applicant proposes an alternate, equally safe method of construction. The only exception is a variance by the borough commissioner pursuant to MDL section 277.16, applicable to non-residential buildings erected prior to 1968 and converted to multiple dwellings pursuant to Article 7-B of the MDL. Further, when a term is defined in the MDL, the department shall utilize such definition in applying provisions of the MDL.

Applicants seeking a waiver or modification of a provision of the MDL are directed to section 310 of the MDL, which allows application to the BSA for relief. Alternatively, applicants proposing to alter a building in excess of the height limits of MDL section 211, 170-a or 171, etc., have the option, pursuant to MDL section 9.3, to reconstruct such building to comply with both (1) all of the building code provisions as would be applicable to a building erected pursuant to the 2008 code, 1968 code, or the code prior to 1968, as elected in accordance with 28-101.3, 28-101.4, and/or 27-120, and (2) all of the MDL provisions applicable to such building re-classified as a hereafter erected multiple dwelling ("HAEA" or "HAEB").

¹ The BSA decisions are case numbers 81-08-A and 82-08-A, and at the issuance time of this bulletin are located at:

<http://search.citylaw.org/isysquery/448748c2-3e8f-4807-b906-9800ee272264/1/doc/>
<http://search.citylaw.org/isysquery/448748c2-3e8f-4807-b906-9800ee272264/2/doc/>