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#### **DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES 60 HUDSON STREET, NEW YORK, N.Y. 10013

JOEL A. MIELE, SR., P.E., Commissioner (212) 312-8100 Richard C. Visconti, R.A. First Deputy Commissioner Technical Affairs/Operations (212) 312-8120

Issuance #497

# OPERATIONS POLICY AND PROCEDURE NOTICE # 2/96

TO:

Distribution

FROM:

Richard C. Visconti, R.A., First Deputy Commissioner

DATE:

May 28, 1996

SUBJECT:

WAIVERS OF LOCAL LAW (LL) 10/80, 10/81 and 62/91 PENALTIES

**EFFECTIVE:** Immediately

PURPOSE:

To establish eligibility and evidentiary requirements for applicants requesting

abatement or waiver of penalties assessed under LL 10/80, LL 10/81, or LL 62/91.

**SPECIFICS:** 

# Generally:

All requests for penalty abatements or waivers ("waivers") must be made in writing to the appropriate division of the Department of Buildings listed below. Two (2) to three (3) weeks should be allowed for processing.

#### For LL 10/80 requests

Local Law Enforcement Unit, 14th Floor, 60 Hudson Street, Manhattan

## For LL 10/81 requests

Local Law 10/81 Unit, 14th Floor, 60 Hudson Street, Manhattan

All requests for waivers of LL 10/81 violations must be accompanied by a Penalty Sheet and an Elevator Search Sheet. Elevator Search Sheets can be obtained from the Elevator Division, 5th Floor, 60 Hudson Street. Penalty Sheets can be obtained from the LL 10/81 Unit, 14th Floor, 60 Hudson Street.

# For LL 62/91 requests

Boiler Division, 14th Floor, 60 Hudson Street, Manhattan

#### **Expiration and Scope:**

A waiver does not dismiss the underlying violation; it only removes the obligation to pay the fine associated with the violation. Only when a current or subsequent pertinent LL report is filed with the Department will the underlying violation be dismissed.

#### **Evidence and Eligibility:**

Penalty waivers may be granted based on any of the following criteria, provided the appropriate supporting documentation listed below is submitted:

## L. General Bases for Granting a Waiver

#### 1) New Owner

For a waiver of all fines due and owing prior to the transfer of ownership

#### **BOTH** of the following are required:

- (A) a copy of a recorded deed evidencing transfer of ownership to the current owners <u>after</u> the penalties were incurred.
- (B) a sworn affidavit stating that the current owners were not legally or otherwise responsible or liable for the maintenance of the property during any portion of the period when the report was due (see attached "No Relationship" affidavit).

# (2) Government Ownership

For a waiver of all fines due and owing <u>during and prior</u> to the property being in government ownership <u>BOTH</u> of the following are required:

- (A) official documentation from a government agency or entity affirming that the premises was entirely owned by that government agency or entity during the entire period when there was a filing requirement.
- (B) for a waiver of fines that accrued <u>prior</u> to the government ownership, a "No Relationship" affidavit described in paragraph (1)(B) above.

# 3) Bankruptcy

A full waiver of all fines due and owing <u>prior</u> to the bankruptcy filing date, the following is required:

A copy of the bankruptcy petition, together with proof that either the Department of Buildings (DOB) or the Law Department was served with a "Notice of Bar Date" in a Bankruptcy Claim. If any such documentation is submitted, the respective Local Law divisions should consult with the General Counsel's Office to confirm whether, and until what date, a waiver of penalties should be granted.

#### 4) Demolished Building

Both of the following are required:

- (A) City or Departmental records evidencing demolition of the building <u>prior</u> to the deadline for filing the pertinent report.
- (B) a sworn affidavit by the owner attesting to the date of demolition (see attached "Demolished Building" affidavit).

## II. Additional Bases For Waiver of LL 10/81 Penalties

#### 1) Sealed or Vacated Building

**Both** of the following are required:

## (A) at least one of the following:

- (1) a Vacate order issued for the period prior to the filing deadline.
- (2) an application to seal the premises filed with, and approved by, the Department of Buildings or another governmental agency during the period prior to the filing deadline.
- any other Department of Buildings document(s) demonstrating that the building was sealed or vacant prior to the filing deadline.
- (B) a sworn affidavit by the owner stating that the building on the property in violation was sealed or vacant pursuant to the Department record, prior to the deadline for filing the report (see attached "Sealed or Vacant Building" affidavit).

## 2) Dismantled Elevator

The following is required:

- (A) proof that a permit was issued by the Department for the removal of the elevator(s) prior to the deadline for filing the report; and either
- (B) a sworn affidavit by the owner stating that the elevator(s) was(were) removed or dismantled prior to the deadline for filing the report during the period at issue (see attached "Removal/Dismantling" affidavit);

OR

- (C) a Department "sign-off" indicating that the elevator was removed or dismantled prior to the deadline for filing the report.
- 3) Non-Compliance in 1981 through 1986

An 85% penalty reduction may be granted for 1981 through 1986, upon proof of compliance in any year between 1981 through 1987, and payment of the remaining 15%.

#### III. Additional Bases for Waiver of LL 62/91 Penalties

1) Sealed or Vacated Building

See Documentation requirements listed in II.(1) above.

# 2) Removed or Dismantled Boiler

Either of the following is required:

- (A) proof of filing an OP-49 form with the Department, indicating that the boiler was removed or dismantled in the year at issue.
- (B) a Department "sign-off" or permit indicating that the boiler was removed or replaced prior to the deadline for filing the report.

# NO RELATIONSHIP AFFIDAVIT

State of New York	)		
County of	) ss.: ) , being duly sw	orn under the penalty o	of perjury,
deposes and says:			
1) I am (we are) tha	owner(s) of the pren	nises known as	
i) i am (we are) me	owner(s) of the pren	iises kilowii as	(address)
also known as Lot#	of Block # of	the Tax Map of the Cit	` '
have been since	of		
	<del>-</del> -	wing violations accrued	-
Law/:	(list ap	pplicable local law viola	ntions)
3) At the time the at responsibility towards the pr		elations accrued, I (we) ha	_
4) The attached copy	of the recorded deed	d is certified by me to b	e true and correct.
Title (if Corporate owner)			
Signature	<del></del>	Signature	
Sworn to Before me			
This day of,	·		
Notary Public			
For Department Use Only			

# SEALED OR VACATED BUILDING AFFIDAVIT

State of New York	)		
County of	) ss )	<b>.:</b>	
	_, being duly	sworn under the per	nalty of perjury, deposes and says:
1) I am (we are)	the owner(s) o	of the premises know	vn as
			(address)
also known as Lot #	of Block #_	on the Tax M	Iap of the City of New York, and
have been since	_ of	~··	
2) The building(s)	on the above	mentioned premises	s was(were) vacant from
4:1	- <b>C</b>		(month)
of until (month)		as reflected on	<del></del> •
(year) (month)	(year)		
2) Domina the afec			
3) During the alor	rementionea p	<b>е</b> поа,	(boiler(s)or elevator(s))
Janina monthaga		(# of devices)	(boiler(s)or elevator(s))
device numbers			and
,	es or regulation	ons were violated due	
Title (if corporate owner)			
Signature		Signat	ure
Sworn to Before me		B	
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Notary Public			
For Department Use Only	•	•	Fine
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Waiver Fee	Filing Fee	<del></del>	Total Fee

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State of New York County of	) ) ss.:	
	being duly sworn u	nder the penalty of perjury, deposes and says:
. 1) #		
1) 1 am (we are	e) the owner(s) of the pre	emises known as(address)
also known as Lot #	of Block # c	n the Tax Map of the City of New York, and
have been since	of	
2) The building	g(s) on the above mention	ned premises was(were) completely demolished
pursuant to permit #	·	
3) During and a	after the time the aforeme	entioned building(s) was demolished it (they) was
(were) neither accessible	e to members of the pub	lic, nor a threat to the general safety of the public.
4) No other state building(s).	tutes or regulations were	violated due to said demolishing of the
5) The attached	I documents are certified	by me to be true and correct.
Title (if corporate own	er)	
Signature		Signature
Sworn to Before me		<i>3</i>
This day of	·	
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Notary Public	<del></del>	
For Department Use O	nly	
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Waiver Fee	Filing Fee	Total Fee

LL 10/81 REMOVAL/	DISMANTLING AF	FIDAVIT
State of New York	<b>)</b> .	
	) ss.:	
County of	)	
•	being duly	sworn under the penalty of perjury, deposes and
says:		and an entire promise of project, appealed and
1) I am (we are	) the owner(s) of the pr	emises known as, (address)
, ,	•	(address)
also known as Lot #	of Block #	on the Tax Map of the City of New York, and
have been such since	of	
2) During the m	onth ofin	the year,elevator(s), device
numbers		,, was (were) either
removed/ dismantled fro	om/at such premises.	
3) From the mor	nth of in the	e year, the aforementioned elevator(s)
3) From the mor	iidi Oi iii di	the aforementioned elevator(s)
was (were) not accessible	le to members of the pu	iblic and at no time was the safety of the
public ever jeopardized.		
puone ever jeoparuizeu.		
4) No other state	utes or regulations were	e violated due to said vacancy.
5) The attached of	documents are certified	by me to be true and correct.
Title (if corporate owne	er)	
Signature Signature		Signature
Sworn to Before me		<b>3</b>
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Notary Public		
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For Department Use On	чу	Fine
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Waiver Fee	Filing Fee	Total Fee

# LL 62/91 REMOVAL/DISMANTLING/DISCONTINUED USE AFFIDAVIT State of New York SS.: County of , being duly sworn under the penalty of perjury, deposes and says: 1) I am (we are) the owner(s) of the premises known as also known as Lot #\_\_\_\_ of Block #\_\_\_ on the Tax Map of the City of New York, and have been such since \_\_\_\_\_ of \_\_\_\_. 2) During the month of \_\_\_\_\_ in the year \_\_\_\_ boiler(s), device number(s) \_\_\_\_\_, was (were) removed from, dismantled at, and/or not used at the aforementioned premises. 3) From the month of \_\_\_\_\_ in the year\_\_\_\_, the aforementioned boiler(s) was (were) not accessible to members of the public and at no time was the safety of the public ever jeopardized. 4) No other statutes or regulations were violated due to said removal/ dismantling/ discontinuance of use of this (these) boiler(s). 5) The attached documents are certified by me to be true and correct. Title (if corporate owner) Signature Signature Sworn to Before me This \_\_\_\_ day of \_\_\_\_\_\_. Notary Public For Department Use Only Approved by Date