20 build safe live safe DIGITAL CONSTRUCTION 21 SAFETY CONFERENCE

PROTECTING RESIDENTIAL TENANTS DURING CONSTRUCTION

TENANT PROTECTION PLAN (TPP) & TENANT PROTECTION ENFORCEMENT

PRESENTED BY

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PRESENTATION DESCRIPTION

This presentation provides an overview of the requirements of the Tenant Protection Plan (TPP) for work in residential and mixed-use buildings containing at least one occupied dwelling.

Viewers will understand when a Tenant Protection Plan is required as opposed to an Occupant Protection Plan and will receive an overview of the 7 essential elements that comprise a TPP, as set forth in NYC Administrative Code §28-120.1.

The presentation will discuss recent and upcoming changes to the TPP in DOB NOW, inspection and auditing process and how acceptable TPPs must be specific to that job site. Participants will also learn about recent updates mandated local laws 154 of2017, Local Law 106 of 2019 and Local Laws 116 and 118 of 2019.



- Legislated tenant protections are the result of continued harassment of building occupants during the construction process:
 - Interruption and/or denial of essential services (heat, water, gas, etc.)
 - Creation of unsafe living conditions (blocked egress, compromised fire protection, decreased building security, etc.)
 - Effects of byproducts of the building process (noise, debris, dust, fumes, etc.)
- Historical NYCDOB Tenant Protection requirements included:
 - 1984: NYCDOB Directive 1: genesis of the "seven essential elements of a Tenant Safety Plan" (now TPP), to be discussed later in the presentation
 - 2008: Inclusion of Tenant Protection Plan requirements in the Building Code
 - 2016: TPP1 form created (modified several times subsequently)



Excerpt from Directive 1 of 1984 showing initial **Tenant Safety Plan** requirements

1. Egress

At all times in the course of construction provision is made for adequate egress, as required by the Code. Required egress must not be obstructed at any time.

2. Fire Safety

All necessary laws and controls as well as any additional safety measures necessitated by the construction shall be strictly observed.

3. Health Requirements

Provision for control of dust, disposal of construction debris, pest control and maintenance of sanitary facilities, and limitation of noise to acceptable levels shall be included.

⁴. <u>Services</u>

Continuation of essential services as required by the New York City Building Code and Housing Code and the State Multiple Dwelling Law.

5. Structural Stabilty

No work to be done where there might be any danger to occupants due to structural work.

6. Controlled Inspection

Everything should be under controlled inspection.

7. Plans

Plans submitted by the applicant shall show compliance with the above items during construction. Details such as temporary Fire-Rated Assemblies and Opening Protectives shall be included.

The applicant must provide a notarized statement that the above conditions will be met.



Flammable construction debris/ garbage blocks egress path.



Fire rated corridor construction is compromised. Temporary protection or Fire Watch is required.



Dust protection (plastic barrier) damaged and ineffective



Misplaced Exit Sign



AIA

Continuing Education

Provider

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Open wood joistsfire hazard and noise problem



What are the effects on surrounding tenants?

 Excessive debris



TENANT PROTECTION PLAN (TPP) vs. OCCUPANT PROTECTION PLAN (OPP)



- The Tenant Protection Plan (TPP), which is the subject of this presentation, is required whenever any dwelling unit remains occupied during construction. The TPP is required even when residential space is not within the proposed construction area (e.g., work on commercial spaces in a mixed-use building).
- The Occupant Protection Plan (OPP) is not covered in this presentation. OPPs are prepared for non-residential projects as per 2014 BC 3303.10 and are NOT filed with or reviewed by NYCDOB. A copy of the OPP must be available on-site for review by authorized personnel and NYCDOB inspectors.
- For commercial construction in mixed-use buildings, both a TPP (for tenant protection) and an OPP (for commercial areas) must be provided.





TENANT PROTECTION PLAN (TPP) vs. OCCUPANT PROTECTION PLAN (OPP)

3303.10 Operations in occupied buildings. When construction or demolition activity occurs in an occupied building, barricades, signs, drop cloths, and other protective means shall be installed and maintained as necessary to provide reasonable protection for the occupants against hazard and nuisance. Such protective means shall be indicated on an occupant protection plan, or where a tenant protection plan is required by Section 3303.10.1, on a tenant protection plan.

*3303.10.1 Tenant protection plan. In buildings containing any occupied dwelling units, including newly constructed buildings that are partially occupied where work is still ongoing within the building, all alteration, construction or partial demolition work shall be performed in accordance with a tenant protection plan as required by Article 120 of Title 28 of the *Administrative Code*.

*Section 3303.10.1 was amended by Local Law 106 of 2019. This law has an effective date of March 8, 2020.



OPP

****3303.10.2 Inspections of tenant protection plan.** The owner shall notify the department in writing at least 72 hours prior to the commencement of any work requiring a tenant protection plan. The department shall conduct an inspection of 10 percent of such sites within seven days after the commencement of such work to verify compliance with the tenant protection plan. The department shall conduct follow up inspections of such sites every 180 days until such construction is completed to verify compliance with the building code and tenant protection plan. Thereafter, the department shall conduct an inspection within 10 days of receipt of a complaint concerning such work.

*Section 3303.10.2 was added by Local Law 154 of 2017. This law has an effective date of December 28, 2017.

**Section 3303.10.2 was amended by Local Law 116 of 2019. This law has an effective date of March 8, 2020.

*3303.10.3 Enforcement of tenant protection plan. If work is not being performed in accordance with the tenant protection plan, the commissioner may issue a stop work order pursuant to section 28-207.2 of the administrative code.

*Section 3303.10.3 was added by Local Law 154 of 2017. This law has an effective date of December 28, 2017.





LEGISLATIVE BASIS OF TPP REQUIREMENTS

- Local Laws were passed by the City Council in 2017 and 2019 that expanded TPP requirements and shifted the responsibility for the TPP from the Applicant of Record to the Contractor performing the work (or their consultant) in almost all cases (exception: 1 & 2 family homes).
 - LL 154 of 2017: TPP reform and inspection requirements
 - LL 161 of 2017: Office of the Tenant Advocate created
 - LL 106 of 2019: Contractor submits TPP; DOB inspections of 10%
 - LL 116 of 2019: TPP submission Prior to Permit, not Approval
 - LL 118 of 2019: Owner signature required; increased violation cost





RECENT NYCDOB TPP PROCESS REVISIONS

- As of 11/10/2020 (BIS) and 12/28/2020 (DOB NOW), the TPP is a Prior to Permit required item that must be prepared by the Contractor (or their consultant), except in the case of 1- or 2-family houses, where it may be submitted by the Applicant of Record.
- TPPs are no longer reviewed by a DOB Plan Examiner. They are simply received into the system, like other **Prior to Permit** required items.
- TPPs are subject to random audit and to targeted audits (when Violations are issued by the Office of the Buildings Marshal).
- The Office of the Tenant Advocate has a TPP audit team that will perform audits for BIS jobs pre-filed after 11/09/2020 and DOB NOW jobs pre-filed after 12/27/2020. All boroughs will be covered.



TPP AUDITS OF OLDER APPLICATIONS

- For audits of BIS jobs pre-filed before 11/10/2020 and DOB NOW jobs pre-filed before 12/28/2020, TPP audits will generally be reviewed by Borough Plan Examiners, as they have been in the past.
- This presentation does not cover resolution of audits for such prior to approval Tenant Protection Plans, although the general process should be similar.
- Please contact the relevant Borough Plan Examiner (Auditor) for guidance.



- As per current legislation, the seven required elements of a Tenant Protection Plan are:
 - Item 1: Maintain Legal Egress
 - Item 2: Maintain Fire Safety
 - Item 3 & Item 3a: Comply with Health Requirements (incl. Lead & Asbestos)
 - Item 4: Comply with Housing Maintenance Code Requirements
 - Item 5: Protect Areas of Structural Work & Areas It Affects
 - Item 6: Comply with Noise Reduction/9 Control Requirements
 - Item 7: Maintain Essential Services (or describe interruptions)





1. MAINTAINING EGRESS: Examples of Requirements

- Describe in detail how egress will be maintained.
- If any egress will be temporarily blocked, show/describe alternative egress routes. Phased floor plans may be required.
- If any egress path is in the construction area, describe how it will be protected, maintained and cleaned.
- Describe how the construction area will be separated from the occupied dwelling units (plastic barriers, etc.).
- If a Fire Watch is required due to unprotected or compromised egress paths, then state that.





1. MAINTAINING EGRESS: Example Submission

Audience: Acceptable or Not? Indicate why in Chat Box

2. EGRESS: AT ALL TIMES IN THE COURSE OF CONSTRUCTION THE EGRESS STARTING FROM THE SECOND FLOOR OCCUPIED APARTMENT WILL BE MAINTAINED.

NO CONSTRUCTION MATERIAL, DEBRIS OR EQUIPMENT TO OBSTRUCT THE TENANTS EGRESS AT ANY GIVEN TIME.

WHEN VENDORS ARE MAKING DELIVERING THE MATERIALS SHALL BE TAKEN TO AREA OF CONSTRUCTION WITHOUT ANY DELAY THAT WILL CAUSE AN OBSTRUCTION TO THE MEANS OF EGRESS. WHEN REMOVING RUUBISH FROM UPPER FLOORS THEY SHOULD TAKEN OUT IMMEDIATELY. FINISH WORK IN HALLWAYS THAT AFFECT THE TENANTS EGRESS SHALL ONLY TAKE PLACE WHEN TENANTS CONFIRMED THAT THEY ARE NOT HOME





2. MAINTAINING FIRE PROTECTION: Examples of Requirements

- Describe in detail what areas will be compromised (fire rated partitions, pipe chases, stair enclosures, floor and ceiling assemblies, etc.).
- State/show where fire extinguishers will be provided.
- If a sprinkler or standpipe system is affected, describe the scope and any service interruptions anticipated. This can apply to all job types, not just sprinkler or standpipe applications (or refer to TPP for those jobs).
- If a Fire Watch is required due to unprotected or compromised fire protection, then state that, and provide details (hours, etc.).





2. MAINTAINING FIRE PROTECTION: Example Submission

Audience: Acceptable or Not? Indicate why in Chat Box

3. FIRE SAFETY: ALL PRECAUTIONS TO BE OBSERVED TO MAINTAIN FIRE SAFETY AS WELL AS ADDITIONAL SAFETY MEASURES NECESSITATED BY THE CONSTRUCTION SHALL BE STRICTLY OBSERVED. A 2 HOUR FIRE RATED WALL AND FIREPROOF SELF CLOSING DOOR TO BE ERECTED IN THE HALLWAY BETWEEN THE TENANTS APT AND THE AREA OF WORK. IN ANY EVENT, ANY FIRE PROOFING MATERIAL ADJACENT TO THE OCCUPIED APARTMENT IS BEING REMOVED, A FIRE GUARD SHALL BE PRESENT AT ALL TIMES WHILE WORK IS BEING DONE AND THE FIRE PROOFING MATERIAL IS BEING REPLACED



3 and 3a. COMPLY WITH HEALTH REQUIREMENTS: Examples of Requirements

- Describe in detail how the construction area and other affected areas will be maintained in order to minimize dust, debris, fumes, etc.
- State the results of asbestos testing, or indicate that the building is exempt from testing based on the construction date. Indicate action to be taken if suspected ACM is encountered during construction.
- State the results of lead testing (or indicate as not applicable based on building construction date). Indicate how any lead discovered has been or will be remediated.



3 and 3a. **COMPLY WITH HEALTH REQUIREMENTS**: Example Submission #1

Audience: Acceptable or Not? Indicate why in Chat Box

All construction work shall be confined to the interior of the apartment, which will be unoccupied during construction. At no time will construction block the hallway, other public spaces, basement, or means of egress. All construction-related matter will be confined to the worksite.

The apartment entrance will be protected by a zipper cover at all times and will be kept clean. A sticky mat will be placed at the apartment entrance. An air scrubber with HEPA filters will be on during all working hours. Public hallways will be vacuumed with HEPA filter vacuum, mopped with a wet mop after each material removal and at the end of the workday at 3:30pm or at any other time during construction as needed.



3 and 3a. **COMPLY WITH HEALTH REQUIREMENTS**: Example Submission #2

Audience: Acceptable or Not? Indicate why in Chat Box

4. HEALTH REQUIREMENTS: DUST TO BE KEPT TO A MINIMUM AND TO BE REMOVED AFTER COMPLETION OF WORK EACH DAY. PLASTIC COVERS (OR SIMILAR PROTECTION) SHALL BE PLACED ON APARTMENT ENTRY DOORS WHERE WORK BEING DONE THAT MAY CAUSE EXCESSIVE DUST. DISPOSAL OF CONSTRUCTION DEBRIS MUST BE DONE IN THE SAFE MANNER. CONSTRUCTION NOISE WILL BE CEASED AFTER NORMAL WORKING HOURS. LIMIT NOISE TO ACCEPTABLE LEVELS. MAINTAIN SANITARY FACILITIES. CONTROL PEST AT ALL TIMES.

5. CONTRACTOR MUST COMPLY WITH APPLICABLE LAWS RELATING TO LEAD AND ASBESTOS. IF OBSERVED IMMEDIATELY CONTACT OWNER OR ARCHITECT.





4. COMPLY WITH HOUSING MAINTENANCE CODE REQUIREMENTS

 Construction work does not relieve the owner from the responsibility to maintain the building in conformance with HMC standards.





4. COMPLY WITH HOUSING MAINTENANCE CODE REQUIREMENTS

Audience: Acceptable or Not? Indicate why in Chat Box

Construction is limited to the interior of an apartment, which will be unoccupied during construction. All building and sanitary services will be maintained throughout the construction, with the limited disruption of water service for a 4-hour period described in #7- Maintaining Essential Services. The water shutoff will be performed by a licensed plumber. Tenants will receive 72-hour written notice prior to the shutoff and will be provided drinking water on request. Measures to control dust dispersal are set forth below as well as compliance with health requirements. Work will only occur between the hours of 9am - 4pm by a licensed contractor.



5. COMPLY WITH STRUCTURAL WORK LIMITATIONS/REQUIREMENTS

- If no structural work is proposed, then state that.
- If any structural work is proposed, describe in detail how tenants will be protected during such work. This is required even if the structural work is being done under a separate filing (although it is acceptable to refer in writing to the separate Tenant Protection Plan for the separate Structural filing- include the job number).





5. COMPLY WITH STRUCTURAL WORK LIMITATIONS/REQUIREMENTS: Example Submission for Vertical Enlargement in Occupied Building

Audience: Acceptable or Not? Indicate why in Chat Box

10. NO STRUCTURAL WORK SHALL BE DONE THAT MAY ENDANGER THE OCCUPANTS.





6. COMPLY WITH NOISE PROTECTION REQUIREMENTS

- A separate Noise Mitigation Plan is required to be submitted to the NYC Department of Environmental Protection (NYC DEP). A copy is required to be maintained on the site.
- Describe the content of the Noise Mitigation Plan, or refer to it in writing as part of the TPP (in which case, a copy must be made available for tenant review – mention that in the TPP).







You are allowed to conduct construction on your property between 7am and 6pm on weekdays. At all other times, including anytime on the weekends, you must apply for after-hours authorization. Any person or business doing construction in the city must develop a Construction Noise Mitigation Plan before the start of construction or renovation. You will need to check off that you have a Construction Noise Mitigation Plan in your Department of Buildings application for a construction permit. If you are seeking an after-hours construction permit with the Department of Buildings or Department of Transportation (also known as a variance), you must have your Construction Noise Mitigation plan already in place.



All Construction Noise and Alternative Noise Mitigation Plans must be filed online using the forms listed on this page. Copies of the plans must also be available on site in case we inspect your business or property. To avoid fines, be sure that your contractor(s) is aware of these construction activity requirements. If nearby construction impacts you or your business, call 311 or file a report online. For general noise information, visit New York City Noise Code.





6. COMPLY WITH NOISE PROTECTION REQUIREMENTS

Audience: Acceptable or Not? Indicate why in Chat Box

2 Tenant Protection Plan (Continued)

6. Noise Restrictions: Construction noise shall be limited to that permitted during the permitted construction hours of 7:00 am and 6:00 pm on weekdays as per the Noise Code. Contractor to develop a noise mitigation plan prior to the start of work.



7. DESCRIBE ESSENTIAL SERVICE INTERRUPTIONS

- Almost all applications will require some interruption of Essential Services such as water, electricity, and gas. Elevator service is also considered essential for accessibility reasons.
- Describe all anticipated **Essential Service interruptions**:
 - Type of interruption
 - Number of interruptions and duration of each one
 - Notifications to be provided in advance to all affected parties
 - Description of sufficient alternatives to be provided





7. DESCRIBE ESSENTIAL SERVICE INTERRUPTIONS: Example Submission #1

Audience: Acceptable or Not? Indicate why in Chat Box

7. Maintaining Essential Services: Where heat, hot water, cold water,gas, electricity, or other utility services are provided in such building or in any dwelling unit located therein, the tenant protection plan shall specify the means and methods to be used for ,maintaining such services during such work in accordance with the requirements of the New York City housing maintenance code. If a disruption of any such service is anticipated during the work, then such plan shall specify the anticipated duration of such disruption and the means and methods to be employed to minimum such disruption, including the provision of sufficient alternatives for such service during such disruption.



7. DESCRIBE ESSENTIAL SERVICE INTERRUPTIONS: Example Submission #2

Audience: Acceptable or Not? Indicate why in Chat Box

- A. A temporary disruption of hot and cold water service for the installation of a new water shutoff ball valves for a kitchen and bath fixture and PTAC unit upgrade.
- B. The expected duration of the temporary water service interruption shall not exceed 4 hours.
- C. All work will be coordinated with the building superintendent during the approved building work hours. Notice of shutoff will be served on each occupant 72-hours in advance of the shutoff. Flyers will also be taped in the lobby and the hallway of each floor.
- D. No other services will be disrupted.
- E. Only the service elevator will be utilized to move construction materials.
- F. The contact number for the supervisor will be clearly posted on each floor.





TENANT PROTECTION PLAN TAKEWAYS

- TPPs must be detailed.
- TPPs must be site specific.
- DO NOT use generic terms such as Code-compliant, protected in accordance with law, legal or approved, etc.
- TPPs must address all seven elements.





TPP REQUIREMENTS FOR PRE-SIGNOFF OCCUPANCY

- In many cases, buildings are granted partial occupancy for dwelling units while construction is completed elsewhere in the building.
- Per 2014 BC 3303.10.1, a TPP is required as soon as any dwelling units are occupied in any building that is still undergoing construction. This is true even if construction is no longer occurring in residential portions of the building (e.g., work on commercial spaces in mixed-used buildings).
- Submit to DOB NOW. No DOB review of these after permit TPPs will occur, but they will be subject to DOB audit, violations, Stop Work Orders, etc., just like the standard Prior to Permit TPPs.





TPP FLOOR PLAN REQUIREMENTS

- In many cases, adequate TPP information can be provided by narrative means only. However, in certain circumstances, floor plans must be provided to explain tenant protections adequately. Examples include:
 - Blocking or Closing Means of Egress: plans must show modified egress paths and temporary signage required to direct tenants to the modified egress paths.
 - Phased Construction: plans must show varying egress paths, signage, etc. as each phase is undertaken.
 - The contractor (and their consultant) is responsible for determining whether or not floor plans are necessary, subject to DOB audit.



TPP AMENDMENTS

- Tenant Protection Plans must be amended if site conditions and/or work scope changes in ways that affect tenants of occupied dwelling units.
- Amendments to Prior to Permit TPPs will not be reviewed by DOB plan examiners but must be submitted to DOB NOW for record and possible audit.
- Amended TPPs must be available on site as soon as they are necessary to reflect the actual site conditions.





- Notice to DOB Within 72 Hours of Work Commencement
- Posting of TPP availability at the building
- Notification to Tenants of TPP (standard form available)
- Site Inspections in response to Complaints by the Public
- Site Inspections for TPP compliance Randomly selected
- Stop Work Orders
- Violations for Insufficient TPP (\$10,000 1st offense, \$25,000 2nd offense)
- Audit with Intent to Revoke Letter for Failed Audit





NOTICE

RE: TENANT PROTECTION PLAN FOR OCCUPANTS

The New York City Department of Buildings (DOB) has issued a permit for work in this building that requires a Tenant Protection Plan (TPP). Building occupants may obtain a paper copy of the TPP from the owner and may access the plan on DOB's website at www.nvc.gov/buildings.

Permit Number(s):

Address:

Below is the contact information for the (check one):

Site Safety Manager

Site Safety Coordinator Superintendent of Construction Owner/Owner's Designee

Name:

Phone Number:

Building occupants may call 311 to make complaints.

NYC Administrative Code § 28-120.1.3 requires the Owner to:

- · Distribute this notice to each occupied dwelling unit; and
- Post this notice in a conspicuous manner in the lobby and
 - on each floor within ten feet of the elevator
 - if the building does not have an elevator, within ten feet of or in the main stairwell of each floor.



Real Time Enforcement Unit

- Created Under Local Law 188 of 2017
- Requires DOB to monitor certain occupied multiple dwellings
- Inspect immediately hazardous complaints for work without a permit (WWOP) within 12 hours
- DOB has created a notification form, which will allow owners of occupied multiple dwellings to submit the notification when conducting certain work. DOB is monitoring such buildings as required by the law.





Safe Construction Bill of Rights

- Part of the Housing Maintenance Code
- Must include:
- Description of work being conducted & the specific location
- Hours of construction work.
- Projected timeline for the completion of work.
- Description of the amenities/essential services unavailable/interrupted during work and plan to minimize the interruption.
- Contact info (Phone #) for Agent/Owner for non-emergency matters and emergency matters 24hrs/7 days a week during construction.



Safe Construction Bill of Rights

This Notice and a Tenant Protection Plan are required to be distributed to each occupied dwelling unit and posted in a conspicuous manner in the building lobby and on every floor within 10 feet of every elevator bank, or, in a building with no elevator, within 10 feet of or inside every main stairwell and shall remain posted until the completion of the described permitted work because :

- The property owner has filed an application for a permit for work not constituting minor alterations or ordinary repairs with the Department of Buildings (DOB).
- The property owner has notified the DOB that an emergency work permit is being sought.
- The property owner has filed for a temporary certificate of occupancy,

Description of the type of work being conducted and the locations in the multiple dwelling where the work will take place



Description of the amenities or essential services anticipated to be unavailable or interrupted during the work and how the owner will minimize such unavailability or interruption

Hours of construction	
Projected timeline for the completion of	of the work
Agent or employee of the owner who	can be reached for non-emergency matters pertaining to the work
being performed	
Name:	Contact number:
Agent or employee of the owner who c	an be reached for emergency matters pertaining to the work being
performed 24 hours a day, 7 days a we	ek during the period of construction:

To file a complaint about the work being performed or ask questions about the work being performed, contact the Department of Buildings at 311.



To file a complaint about the work being performed or ask questions about the work being performed, contact the Department of Buildings at 311.

Este es un aviso importante acerca de las tareas de construcción que se están llevando a cabo en el edificio. El propietario del edificio está obligado por ley a poner este aviso a su disposición en español. Comuníquese con el propietario para obtener la traducción de este aviso.

هذا إخطار مهم بشأن أعمال البناء في المبنى الخاص بك. يطلب من مالك المبنى بموجب القانون جعل هذا الإخطار متاحًا لك باللغة العربية. اتصل بالمالك لترجمة الإخطار.

<u>此为关于您所住楼宇施工工程的重要通知。楼宇业主须按照法律要求向您提供此通知的中文版。</u> 请联系业主案取通知译文。

Sa se yon anons enpòtan konsènan travay konstriksyon k'ap fèt nan bilding pa'w la. Lalwa egzije mèt bilding nan ba ou anons lan an Kreyòl Ayisyen. Kontakte mèt bilding nan pou tradiksyon anons lan.

<u>이는 귀하의 건물 내 건설 작업과 관련된 중요한 통지입니다. 건물주는 법적으로 이 통지서를 한국어로</u> 제공해야 합니다. 통지서 번역본이 필요한 경우 건물주에게 문의하시기 바랍니다.

Это важное уведомление о проведении строительных работ в вашем здании. По закону собственник здания обязан обеспечить перевод данного уведомления на русский язык. Свяжитесь с собственником для перевода данного уведомления.





THANK YOU

NCF

