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Issuance #658

**ADMINISTRATION
POLICY AND PROCEDURE NOTICE 1/05**

TO: Distribution

FROM: Robert LiMandri

A handwritten signature in black ink, appearing to be "RL" or similar initials, written over the "FROM:" field.

DATE: July 19, 2005

SUBJECT: Update of documentation requirements for Local Law 10/81, 11/98, 62/91 civil penalty waivers and reductions, as well as for PVT Elevator and electrical violation dismissals

EFFECTIVE: Immediately

SUPERSEDES: Administrative Policy and Procedure Notices #5/92 and #2/96

PURPOSE:

To update eligibility and evidentiary requirements for applicants requesting abatement or waiver of penalties assessed under LL 10/81, LL 11/98, and LL 62/91, and dismissals of PVT Elevator and electrical violations. This document is organized into 6 sections:

1. Granting a Waiver Based on Owner Status
2. Granting a Waiver Based on Building Status
3. Granting a Waiver Based on Device Status
4. Granting a Reduction or Dismissal Based on Time of Filing
5. Granting a Dismissal of PVT Elevator Violations Based on Satisfactory Inspection and/or Test
6. Granting a Dismissal of Electrical Violation Based on Satisfactory Re-inspection

Please visit the Forms link on the Department of Buildings (DOB) web site (<http://www.nyc.gov/html/dob/html/pdfinst.html>) for the forms that are referred to in this PPN.

SPECIFICS:

All requests for penalty abatements or waivers ("waivers") must be made in writing to the Boiler, Elevator, Façade, or Electrical Units at the following address. Please include the Request Cover Sheet with each request (available on the DOB web site):

280 Broadway 4th Floor
New York, NY 10007

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Explanation of Waiver (for Local Laws 62/91, 11/98, and 10/81): A waiver does not dismiss the underlying violation; it only removes the obligation to pay the fine associated with the violation. In order for the violation to be dismissed, a pertinent inspection report for a subsequent period must be filed in conjunction with the supporting documentation required for the waiver. Please note that a subsequent inspection report is not necessary for dismissal if the property is demolished or is sealed or vacated at the time of the request, or (for LL 62/91 only) meets the “mixed use building” or the “less-than-6 dwelling units” criteria set forth in this PPN.

Evidence and Eligibility: Civil penalty waivers, civil penalty reductions, and violation dismissals may be granted as instructed, based on criteria outlined in the section below. The appropriate supporting documentation must be submitted by the applicant, unless already on record with DOB, such as job sign-offs noted in the Building Information System (BIS) or copies of Certificates of Occupancy that are available online.

I. Granting a Waiver Based on Owner Status. Civil penalties may be waived for Local Law violations based on ownership status as follows:

Status	Criteria	Required Documentation	Source
New Owner	The penalties were incurred under a previous owner that has no relationship to the current owner.	Proof of a recorded deed evidencing transfer of ownership to the current owner(s) after the penalties were incurred.	DOB may obtain proof online through the Department of Finance. Applicant must provide <u>only</u> if the record is not available online.
Government Ownership	The penalties are incurred while a building is under government ownership.	Official documentation from the government entity affirming that the premises was entirely owned by that government entity during the period for which a waiver is requested.	Owner must provide letter on official government letterhead.
Bankruptcy	The penalties were incurred prior to the date that the owner declared bankruptcy and/or during the bankruptcy.	A copy of the bankruptcy petition, together with proof that either DOB or the Law Department was served with “Notice of Bar Date” in a Bankruptcy Claim. If 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.	Owner must provide required bankruptcy documentation.

II. Granting a Waiver Based on Building Status. Waivers for Local Law violations may be obtained based on building status as follows:

Building Status	Criteria	Required Documentation	Source
Demolished	The penalties were incurred for a building that had been demolished during or prior to the deadline for filing the report in question.	City or Departmental records evidencing demolition of the building prior to the deadline for filing the pertinent report AND/OR evidence that a New Building permit has been issued for that property.	DOB may look up demolition sign-off and New Building permit information in BIS. Applicant must bring in official city record of demolition sign-off <u>only</u> if no record of sign-off appears in system.
Sealed or Vacated (for LL 10/81 and 62/91 only)	The penalties were incurred while the building was sealed or vacated.	DOB document(s) demonstrating that the building was sealed prior to the filing deadline OR: A sworn affidavit by the owner stating that the building was sealed or vacant prior to the filing deadline <u>along with</u> DOB document(s) showing that the building was ordered to be vacant prior to the filing deadline.	DOB may look up vacate order online. Applicant must provide affidavit.
Building with Less than Six Families (LL 62/91 Only)	The penalties were incurred for a building with less than six families.	Copy of the current Certificate of Occupancy showing that the building has less than six dwelling units (absent evidence that each unit is occupied by more than one family).	DOB may look up Certificate of Occupancy online or Permissible Use and Occupancy information in Schedule A on BIS. Applicant must provide application number.
Mixed Use Building (LL 62/91 Only)	One boiler heats the residential space, which is occupied by less than six families, and another boiler heats the commercial space. NOTE: Waiver is only applicable to the boiler that serves the residential space.	A copy of the current Certificate of Occupancy AND: “Self Certification of Removed or Existing Boiler(s)” form (Form OP 49) completed by a licensed plumber, registered architect or professional engineer stating that the boiler for which the waiver is sought heats only the residential space.	DOB may look up Certificate of Occupancy online or Permissible Use and Occupancy information in Schedule A on BIS. Applicant must provide application number. Also, if the OP 49 is not on file with DOB, applicant must provide it.

Please note that waivers and dismissals are NOT available for the following:

- a) A building where the boiler heats the commercial space, regardless of the number of families residing in dwelling units served by such boiler.
- b) A building where the boiler is located in a dwelling occupied by six or more families, even if the boiler serves fewer than six dwellings.

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III. Granting a Waiver based on Device Status. Civil penalties may be waived for Local Law violations based on device status as follows:

Device Status	Criteria	Required Documentation	Source
Removed Elevator	The penalties were incurred after elevator had been removed from the building (or during removal).	Proof that a permit was issued by DOB for the removal of the elevator(s) AND: DOB “sign-off” indicating that the elevator was removed prior to the required filing date.	DOB may look up permit and sign-off online. Applicant must provide <u>only</u> if records are not on file with DOB.
Removed or Disconnected Boiler	The penalties were incurred after boiler had been disconnected or removed from the building (or during removal).	A “Self-Certification of Removed or Existing Boiler(s)” form (Form OP-49) must be filed indicating the earliest date of the removal or disconnection and how the building is being heated.	If the OP 49 is not on file with DOB, the applicant must provide it.
New or Replaced Device	The penalties were incurred for a period during which the device was installed and passed the Acceptance Test or First Test.	Proof of the Acceptance Test (for elevators) or First Test (for boilers) as part of a new installation sign-off during the period that the report was due.	DOB may look up proof of Acceptance Test and First Test in BIS. Applicant must provide <u>only</u> if records are not on file with DOB.
Work In Progress	The penalties were incurred while device was inactive and undergoing work for repair or other modifications.	Proof of work in progress such as work permit or approval from DOB to perform the work in the same year that the violation was served.	DOB may look up permit information online. Applicant must provide <u>only</u> if records are not on file with DOB.

IV. Granting a Reduction or Dismissal Based on Time of Filing. A civil penalty reduction or dismissal of the violation may be obtained as follows:

Time of Filing	Requested Action	Criteria	Required Documentation	Source
On Time	Dismissal	The filing and performance of the inspection were both done prior to the deadline.	Copy of Annual Inspection report (OP-1 for boilers, ELV-3 for elevators) AND: Canceled check (front and back) as proof of payment of the filing fee prior to the filing deadline.	Applicant must provide documentation.
Late Filing (LL 62/91 Only)	Civil Penalty Reduction	Inspection was done prior to the deadline.	Filed inspection report (OP-1 for boilers) for the current year. AND <u>one</u> of the following to show evidence of timely inspection, such as: -Inspection invoice -Receipt of payment -Executed contract with insurance company or inspector	Applicant must provide documentation.

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Filing between 1981 and 1987 (LL 10/81 Only)	Civil Penalty Reduction	The filing and performance of the inspection were both done prior to the deadline.	Proof of compliance of filing requirement in any year between 1981 through 1987 and receipt of payment of remaining 15% (after 85% reduction).	Applicant must provide documentation and payment.
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V. Granting a Dismissal of PVT Elevator Violations Based on Satisfactory Inspection and/or Test: A dismissal of a DOB violation written by an elevator inspection company during a routine inspection (PVT) may be obtained as follows:

Violation	Criteria	Required Documentation	Source
PVT (DOB) Elevator Violation	A subsequent test or inspection shows that the prior violating condition no longer exists.	Satisfactory annual (LL 10/81) elevator report OR: A 2, 3, or 5 year test/inspection report (ELV-3 form) OR: Proof of a satisfactory inspection or test from a re-inspection conducted by a DOB/Professional Elevator Inspection Company (PVT).	DOB may review inspection records online. Applicant must provide this only if the records are not on file with DOB.

VI. Granting a Dismissal of Electrical Violation Based on Satisfactory Re-inspection: A dismissal of an electrical violation may be obtained as follows:

Violation	Criteria	Required Documentation	Source
Violation to owner – no application on file	Engage a licensed electrical contractor to file an application. Penalties for unfiled work range from two to ten times the ordinary fee otherwise payable.	Electrical Permit Application	Contractors may obtain an Electrical Application at the Electrical Unit.
Violation to owner-defective electrical equipment	Engage a licensed electrical contractor to repair or replace the defective equipment. Contractor is required to file an application, make repairs, and obtain a <i>Certificate of Electrical Inspection</i> .	Certification of Electrical Inspection	For an inspection (to obtain a Certificate of Electrical Inspection), owners should call the Electrical Unit borough office.
Violation to owner – non-electrical work not in compliance (storage in electric room, improper signs at electric room, no access to electrical equipment)	Filing of an application by a licensed electrical contractor is not required. The owner should address the condition(s) cited in the violation (remove stored items; install proper signs; render equipment accessible).	Certificate of Electrical Inspection	
Violation to electrical contractor – filed work not in compliance	Ensure that a licensed electrical contractor obtains a <i>Certificate of Electrical Inspection</i> . Filing of an additional application is not required if the contractor is the original filer.	Certificate of Electrical Inspection	

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