

8/96



DEPARTMENT OF BUILDINGS
EXECUTIVE OFFICES
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Issuance #497

**OPERATIONS
POLICY AND PROCEDURE NOTICE # 2/96**

TO: Distribution
FROM: Richard C. Visconti, R.A., First Deputy Commissioner *RW*
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:

I. 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 after 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 during and prior to the property being in government ownership **BOTH** 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 prior 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 prior 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 prior 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.
 - (3) 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.

