



ISSUANCE # 261

DEPARTMENT OF BUILDINGS  
EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, N.Y. 10013  
RUDOLPH J. RINALDI, COMMISSIONER

RALPH S. HERMAN, R.A.  
Acting Assistant Commissioner  
Technical Review & Compliance  
(212) 312-8324

TECHNICAL  
POLICY AND PROCEDURE NOTICE # 1/90

TO: Distribution  
FROM: Ralph S. Herman, R.A.  
Assistant Commissioner  
DATE: November 1, 1990  
SUBJECT: WAIVER PROCEDURES FOR LOCAL LAW 58/87

REFERENCES: Administrative Code Section 27-292.6 Waiver of Requirements; Memorandums and Directives of 1988, pages 2455 and 2456, "Form Waiver Letters for Local Law 58/87."

PURPOSE: To clarify procedures for obtaining a waiver of the requirements of Local Law 58/87, (accessibility for the disabled), pursuant to Section 27-292.6..

EFFECTIVE DATE: Immediately

SPECIFICS: Applicants may resolve plan examination objections based on Local Law 58/87 by revising their plans accordingly, or by obtaining a waiver from the Department of Buildings. Prior to the issuance of such a waiver, the Mayor's Office for People with Disabilities ("MOPD") shall be consulted and shall issue a recommendation to the Department. Questions involving an interpretation of Code requirements, as opposed to a waiver of Code requirements, need not be referred to MOPD.

All waiver requests to the Commissioner shall cite each requirement sought to be waived and shall be in writing, using the standard application for requesting a reconsideration and citing each and every applicable criteria specified in Section 27-292.6 of the Code which is to be considered as the basis for the waiver. Evidence in support of each of the criteria invoked shall be included in the submission.

The Borough Office shall complete the form referral letter and forward it to MOPD. The Applicant may hand carry the letter, along with any supporting documents, directly to MOPD. MOPD shall review the waiver request and provide the Department with a written recommendation. The Applicant may transmit the recommendation to the Department.

As per Section 27-292.6, the Applicant shall request, and MOPD may recommend, issuance of a waiver based upon a specific finding that compliance with the requirements of Local Law 58/87:

- a) would create an undue economic burden; or
- b) would not achieve its intended objective; or
- c) would be physically or legally impossible; or
- d) would be unnecessary in light of alternatives which insure the achievement of the intended objective or which, without a loss in the level of safety, achieve the intended objective more efficiently, effectively or economically; or
- e) would entail a change so slight as to produce a negligible additional benefit consonant with the purposes of the Code.

Upon receipt of the recommendation from MOPD, waivers may be granted or denied by the Borough Commissioner/Superintendent, acting through the usual route of reconsideration, if in agreement with the MOPD recommendation. The determination of the Borough Office shall be made in writing, and shall cite each and every one of the aforementioned grounds (as presented by the Applicant) to justify the granting or denial of the waiver with respect to each requirement sought to be waived. The MOPD recommendation shall also be cited.

If the Borough Superintendent believes that a waiver is either justified or should be denied, contrary to the MOPD recommendation, the application shall be referred to the Assistant Commissioner for Technical Compliance. Such a referral shall include the reason(s) why the Borough Superintendent believes the MOPD recommendation should not be accepted.

RSH:rmr