



# Construction Safety Week 2011

## Resolving ECB Violations Renaldo Hylton

*April 27, 2011 – 3<sup>rd</sup> Floor Conference Room*

- **ECB violations are the most common type of violation the Department issues when a property does not comply with the NYC Building Code and / or Zoning Resolution**
- **Order the owner/respondent to correct the condition and to certify correction to the Department**
- **ECB violations can result in a hearing at ECB Court (Administrative court)**

## Environmental Control Board (ECB):

- Administrative court that provides hearings on violations issued by City agencies for "quality of life" infractions
- ECB renders judgment and collects all penalties assessed at hearings
- ECB does not:
  - Issue violations
  - Establish enforcement policies
  - Employ inspectors or agents
  - Direct, control or otherwise influence where, when or to whom violations are issued

# ECB Violation Components



## NOTICE OF VIOLATION AND HEARING



COMMISSIONER OF THE DEPARTMENT OF BUILDINGS  
OF THE CITY OF NEW YORK, PETITIONER, AGAINST

Violation No. 0000000X  
ENVIRONMENTAL CONTROL BOARD

<b>Respondent</b>	First name (or entity name) Smith	Last name John
<input checked="" type="checkbox"/> <b>Mailing address</b> (Check if same address as place of occurrence)	Number and street 9999 Broadway	City New York
Additional mailing to be sent (agent, care of, other):		State NY
<b>Name</b>	First name	Last name
<b>Mailing address</b>	Number and street	City

Respondent & Property Information

### Commissioner's Order To Correct Violations

<b>Place of occurrence</b> 9999 Broadway	Boro Man.	Date of violation 07 / 11 / 09	Type C	Dist. Ex.	Code JD	No. 04
Construction type Brick	BIN No. 1234567	No. of stories 12	Block 123	Lot 45	Occupancy at time of inspection Residential	Basis of violation Special

Based on an inspection of the premises and/or records of the Department, the undersigned has determined that you are in violation of the sections of law cited below, of Title 27, Title 28 of the NYC Administrative Code, the NYC Construction Codes, the NYC Zoning Resolution, the Reference Standards and/or Titles 1 and/or 2 of the Rules of the City of New York.

<b>Violating Conditions Observed</b>	Stop Work Order <input type="checkbox"/> Full <input checked="" type="checkbox"/> Partial	Class 1 <input type="checkbox"/>	Class 2 <input checked="" type="checkbox"/>	Class 3 <input type="checkbox"/>	Recurring Condition <input type="checkbox"/>
Infraction Code B201	Provision of Law 28-105.1	Work without a permit. At the basement of a three storied one-family brick framed structure, walls have been removed to create multiple rooming units. A bathroom with three (shower, toilet, sink) was created in the northeast corner. A kitchen area with a gas stove was created in the northwest corner.			
Note: At the rear, a garage door has been removed and replaced with a red brick wall approx. 30' X 10'.					
Remedy: Obtain permit or restore premises to prior legal condition.					

Commissioner's Order to Correct Violations

Important Information: As detailed in §28-201.4 and Section 102-01 of Subchapter B of Title 1 of the Rules of the City of New York, violations may be subject to the penalties of the first order, which shall be imposed in accordance with the ECB Buildings Penalty Schedule.

<b>Resolution options</b>	<b>CURE DATE</b> 08 / 20 / 09	<b>HEARING DATE</b> 08 / 27 / 09	at <input type="checkbox"/> 8:30 AM <input checked="" type="checkbox"/> 10:30 AM <input type="checkbox"/> 1:30 PM
If a date appears in the box above, you may have the option to admit the violation and certify correction by the "cure date." By doing so, you avoid a hearing before the Environmental Control Board and any penalties which would be assessed at the hearing. Note: Depending on the violation, non-ECB civil penalties may apply before a cure can be granted. For more information, see reverse side of the respondent copy of this Notice of Violation.			
<b>Environmental Control Board hearing locations:</b> <input type="checkbox"/> Queens, (718) 298-7300 - 144-06 94th Avenue, 1st fl. <input checked="" type="checkbox"/> Manhattan, (212) 361-1400 - 66 John Street, 10th fl. <input type="checkbox"/> Brooklyn, (718) 875-7428 - 233 Schermohrn Street <input type="checkbox"/> Bronx, (718) 993-6110 - 3030 3rd Ave., 2nd fl. <input type="checkbox"/> Staten Island, (212) 361-1400 - 350 St. Marks Place, 1st fl.			
Proceedings will be held under the authority of the NYC Charter section 1049-a and the rules promulgated thereunder. This hearing is your opportunity to answer and defend against the allegations set forth above. Failure to appear, unless an appearance is not required through availability of a Cure or Stipulation (see reverse), will result in a default and imposition of maximum penalties.			
For more information, to reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call the Department of Buildings at 311, or download the "ECB Violation Reference Guide" in the Reference Materials section at <a href="http://www.nyc.gov/buildings">www.nyc.gov/buildings</a> .			

Cure / Hearing Date

Hearing Date and Location

Issuing officer's last name, first initial (print)  
LDC, J

I personally observed the violation(s) charged and/or verified their existence through review of departmental records.

Badge number: 19 | 8 | 17 | 16 | 15 | | M | C |

Supervisor's signature: [Signature]

Issuing officer's signature: [Signature]

This statement is affirmed under penalty of perjury.

0000000X  
ECB-PC (Rev. 9/08)

# No Hearing Resolution Options

## Option 1: Cure – Zero Penalty

- Available for certain violations (Class 3 and most Class 2 violations)
- Respondent must correct the violating condition(s) and certify correction to the Department within 40 days of service of the violation
- If certification is accepted by AEU:
  - Respondent “admits” violation
  - No appearance at hearing
  - No hearing penalty imposed
- Respondents must attend the hearing if the violation cure is not submitted and approved before the cure date

# No Hearing Resolution Options

## Option 2: Stipulations

- Certain violations (Class 3 and selected Class 2 violations)
- Admission of guilt – extends compliance time by an additional 75 days from the first scheduled hearing date
- May be accepted by mail or at the hearing
  - By Mail – Half the penalty must be paid if accepted before the first hearing date
  - At the Hearing – The ECB approved hearing penalty must be paid
- Penalty reverts to original hearing penalty if not certified within 75 days

# No Hearing Resolution Options

## Option 3: Admit by Mail

- All violations, regardless of severity
- The standard penalty must be paid to ECB on or prior to the hearing date
- No hearing after payment is received
- No reduction in penalty
- Eliminates representation costs for “no defense” violations
- Eliminates time spent at ECB
- Requires certification of correction to the Department (this must be done for all violations)

# No Cure Certifications

- All Class 1 and some Class 2 violations prior to the hearing date
- All violations after the cure date (if eligible)
- AEU accepts certifications at any time after a violation is issued
- Respondents must attend the ECB hearing and pay the applicable penalty
- The respondent does not have to admit the violation to certify correction



# Why Certify Correction?

- Required by law – Order from the Commissioner to correct the violation and submit certification to the Department
- Violations can be issued for not certifying correction
- Violations remain “open” until the certification is received
  - BISWeb is updated to indicate compliance
- Banks, mortgage, title companies review BISWeb for compliance information
- “Sweeps” of uncorrected violations may result in additional violations
- Failure to certify can affect ability to obtain a Certificate of Occupancy
- Agreed to by stipulation

# Special Note on Class 1 Violations



**Additional DOB Civil Penalties can be issued for not correcting immediately hazardous ECB violations:**

- **Class 1 violations must be corrected FORTHWITH**
- **Class 1 violations that are not corrected and certified as corrected in a timely manner face additional DOB Civil Penalties of \$1,500 minimum**
- **DOB encourages respondents to certify correction immediately (if possible)**
- **Respondents may still challenge the violation at ECB after certification**

# Certificate of Correction



The Certificate of Correction can be completed by the:

- Respondent named in the violation
- The officer, director or managing agent of the named respondent
- The property owner, but not the named respondent (new owner, attach a copy of deed)



## AEU-2: Certificate of Correction Required For Certification Of ECB Violations Only

### AFFIDAVIT

1	Violation Information
---	-----------------------

ECB VIOLATION NUMBER:

PLACE OF OCCURRENCE: \_\_\_\_\_  
(Number and street) (Borough and Zip)

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, duly swear and affirm under penalty of perjury, that I am the (check one):

- Respondent named on the violation
- Officer, Director or Managing Agent of the named respondent corporation (circle one)
- Owner of Property but not named respondent (if you are a new owner, attach copy of deed)
- Managing agent of place of occurrence (attach letter of designation by owner)
- Partner of named respondent partnership
- Contractor or other agent of named respondent (attach written authorization from respondent)

My mailing address is: \_\_\_\_\_  
(street address, city, state, zip code)

- The managing agent of place of occurrence (with letter of designation from owner)
- The partner of the named respondent
- The contractor or other agent (with authorization)

The Certificate of Correction is in the Forms Section of the Department's website:  
[http://www.nyc.gov/html/dob/html/forms/forms\\_violations.shtml](http://www.nyc.gov/html/dob/html/forms/forms_violations.shtml)

# Tips to Avoiding ECB Violations

- Comply with the Code
- Obtain permits
- Work within the scope of permit
- Hire registered / licensed professionals
- Hire licensed plumbers / electricians etc
- Hire registered contractors
- Correct outstanding violations
- **REMEMBER:** Uncorrected violations may lead to additional violations

# Tips to Avoiding ECB Violations

- Do regular or scheduled maintenance on buildings and appurtenances
- Comply with Local Laws – façade / boiler/ elevator
- Maintain structures
- Stay current with new requirements
- Sign up for the Department's biweekly newsletter, Buildings News ([www.nyc.gov/buildings](http://www.nyc.gov/buildings))

**Questions?**