

**TESTIMONY FROM NYCHA GENERAL MANAGER MICHAEL KELLY
“EXAMINING ELEVATOR SAFETY IN NYCHA HOUSING
FOLLOWING THE DEATH OF OLEGARIO PABON AT BOSTON ROAD
PLAZA”**

**COMMITTEE ON PUBLIC HOUSING
THURSDAY, APRIL 21, 2016 – 1:00 PM
COUNCIL CHAMBERS, CITY HALL, NEW YORK, NY**

Chair Ritchie Torres and members of the Public Housing Committee, and other distinguished members of the City Council: good afternoon. I am Michael Kelly, the New York City Housing Authority’s General Manager. Joining me today are Luis Ponce, Senior Vice President for Operations Support Services; Brian Clarke, Senior Vice President for Operations; Patrick Wehle, Assistant Commissioner of External Affairs for Department of Buildings, and other members of our executive and Operations leadership team.

Before I begin, I want to take a moment to acknowledge the recent passing of Mr. Igor Begun, a dedicated NYCHA Elevator Mechanic Helper for the past six years. Mr. Begun was found unresponsive in the elevator machine room at Coney Island Houses last Friday and could not be revived. I’d like to offer my sincere condolences to his wife and family on behalf of the entire NYCHA community.

While we are awaiting the Medical Examiner’s findings for Mr. Begun and a full accounting of the facts surrounding last Friday’s incident, we do have the results of a full investigation into tragic elevator failures from December at Boston Road Plaza and Morris Houses.

I appreciate the opportunity to explain the immediate and long-term corrective actions NYCHA has taken since these incidents and Department of Investigations (DOI) report findings.

It’s also important for us to acknowledge the life of Mr. Pabon that was lost at Boston Road Plaza. I know there are no words that can comfort his wife and

family when they have experienced this type of loss, but on behalf of the Authority, I would like to sincerely express my deepest sympathies.

In addition, I would be remiss not to mention the injuries that Mr. Brown incurred on December 2 at Morris Houses in the Bronx.

As General Manager, I know remorse is not a remedy, especially for the Pabon and Brown family, and for the elected officials here today. Be assured, I am personally committed to taking every precaution to prevent this from happening again.

A Culture of Accountability

The fatal accident at Boston Road Plaza on Christmas Eve, December 24, 2015, forced NYCHA to face several troubling truths and systemic failures. Beginning with the fact that I was notified of the accident on December 28—4 days after it took place—this is unacceptable. NYCHA's review and cooperation with DOI, revealed this incident was the result of equipment and part failures; people failures; communications breakdowns, and most concerning—a fractured culture or dismissive way of thinking by some.

Don't get me wrong, our 11,000 employees are among the City's finest. They are the unsung heroes that have repeatedly risen to the challenge when asked to do more with less. They perform emergency repairs, maintain our properties, and keep NYCHA running on a daily basis.

The incident at Boston Road Plaza brought something to the surface that we can't ignore. When faced with an elevator hazard that posed a serious risk, members of the Boston Road staff reported to the DOI things like "it's not my job" and "I just wanted to go home." These casual references tap into an indifference that undermines every aspect of what we are trying to change at NYCHA. This is unacceptable.

First, all employees are responsible for being proactive to prevent accidents and injuries when there is a potential hazard. Whether a caretaker or the General Manager, if staff have knowledge of an elevator risk that threatens the potential safety of NYCHA employees or residents—a hazardous condition in *our* workplace and in *their* homes—it is incumbent upon every NYCHA employee to act, communicate, and escalate. Failure to do so and to do so without urgency is simply unacceptable.

Second, this incident forced us to look inward at a way of thinking (which exists beyond Boston Road Plaza) that mirrors the neglect of our buildings from decades of disinvestment and broken promises: A resigned attitude by a small few; a feeling that we can't make things better because of seemingly insurmountable challenges—from decaying buildings to inadequate headcounts and budgets. Over time, situations or conditions that are *unacceptable* become *accepted* because it's been that way. Low morale breeds indifference, contributing to unacceptable conditions, news-grabbing headlines, and just one more reason for funding to be rolled back and public housing to be dismantled.

We cannot afford indifference and I will not stand for it.

Over the past year, I've worked with the Chair to change NYCHA and reset relationships with both employees and residents that have strained over the years. In writing a new chapter on how we do business, we are working daily to cultivate a high-performing culture, which learns from failures and setbacks, metrics and scorecards. And while we still have a ways to go (especially in changing our culture), we will not tolerate the old NYCHA. We cannot come up with excuses to pass the buck or turn a blind-eye to glaring mismanagement, poor judgment, or actions that do not reflect the values of the Authority we continue to reform.

The time for change and ownership is right now.

NYCHA's Elevator Safety: Constantly Improving & Evolving

Before I get into NYCHA's corrective actions on elevators as a result of the Boston Road Plaza and Morris Houses incidents, I wanted to take a step back to give some important context on NYCHA and our elevators.

Elevators are essential for the mobility of our residents, considering 1,658 of our buildings are more than 5-stories tall. Our 3,314 elevators work 24/7, taking 1.2 billion trips a year.

Back in 1980, NYCHA had 390 employees dedicated to elevator maintenance and spent \$17 million a year on elevator maintenance. More than three decades later, with nearly the same number of elevators, NYCHA now has 503 elevator maintenance staff, a team that is experienced and well-trained; our elevator mechanics each carry an average of 15 five years of elevator repair and maintenance experience. In addition, we now invest on average \$80 million a year in elevator maintenance.

The strain on NYCHA's elevators and the attention required to keep up with necessary safety enhancements is an ongoing challenge for the Authority. We are constantly updating and improving safety measures, because the demands of our work require it.

The historical numbers on elevator safety and responses are striking.

Between 1984 and 1991, 11 youth tragically lost their lives playing elevator games, which prompted the Housing Police to create an Elevator Vandalism Squad and a public awareness campaign.

In 2008, after a tragically fatal incident involving a five-year-old boy named Jacob Neuman, NYCHA completely overhauled its elevator safety with an

investment of more than \$250 million for elevator modernization. This overhaul included more staff and the replacement of 570 elevators in 66 developments. At the time, an initial \$14 million was also invested for staffing, and resources to improve maintenance.

While NYCHA is committed to taking every precaution to prevent elevator incidents and accidents, the tragic loss of Mr. Pabon and the injury of Mr. Brown last December prompted another hard look at NYCHA's elevator equipment, procedures, emergency communications, and staff conduct. Fully cooperating with the DOI's thorough investigation of the Boston Road Plaza and Morris Houses accidents, NYCHA identified systemic failures and breakdowns that required prompt attention. Currently, NYCHA has identified and begun to implement over 40 corrective actions across four key areas: (1) Duty and Accountability, (2) Communications and Systems, (3) Training and (4) Policies and Procedures.

Corrective Actions: Policies and Procedures

First, I'll talk about our corrective actions regarding NYCHA's policies and procedures. The Boston Road Plaza and Morris Houses incidents revealed several gaps in these areas. In response, I've implemented a series of protocol enhancements to improve elevator safety:

- New brake monitor protocol requires the inspection of brake monitors (or other elevator safety devices) when preventative maintenance is performed, when elevator brake systems are inspected, and when elevators are restored to service. These procedures have been adopted.
- We're expanding and refining the range of problem codes and classifications so that elevator emergencies can be classified by Customer Contact Center (CCC) staff more accurately and operations staff can prioritize accordingly.

- An emergency elevator situation that poses imminent danger requires an emergency response. Any hazardous, life-threatening elevator conditions that are flagged by CCC will be escalated to 911 for FDNY response, no matter the time of day. This protocol has been adopted and staff is being trained.

Corrective Action: Communications & Systems

Next, I'm going to discuss corrective actions to our Communications and Systems. Through a full accounting of these incidents, it is clear there were unnecessary barriers between information and emergency action. To fix this, NYCHA has begun the following steps:

- Elevator dispatch staff are now required to share all notes captured in the complaint with the elevator mechanic so that our maintenance staff can identify all relevant details of a complaint. This will provide another level of safety assurance in assessing the potential hazard and prioritizing NYCHA's response.
- We are creating a "Skill Group" in our CCC, comprised of specially-trained customer service representatives in elevator issues, with the ability to escalate concerns and questions to a Supervisor in our Elevator Program.
- Creating a regulation monitoring system for program compliance, which will include a stakeholder working group comprised of affected departments (operations and maintenance, capital projects and law); real-time updates and alerts; a protocol for policy, procedure and training implementation; and additional staff capacity on the elevator code committee.
- NYCHA has also started conversations with FDNY to determine how we can improve communications between 911-dispatched emergency responders and NYCHA for major incidents and accidents related to or on NYCHA properties.

Corrective Action: Training

Now, I'm going to talk about our corrective actions with respect to our training. We've revised procedures and communications protocols and we will improve staff training and expand the materials made available to the Customer Contact Center staff.

- Elevator staff have trained CCC supervisors on elevator functionality and hazards to help better train call-takers on properly identifying and coding an elevator hazard. More detailed triage questions were also developed to help better match the problem with the right priority code.
- NYCHA is enhancing current training with on-site field training tailored for the Elevator Service & Repair Department to identify and prevent dangerous conditions related to emergency brake systems, regulations and protocols.
- We are also working with the Department of Buildings to explore additional training and certification options, including the National Association of Elevator Safety Authorities certification and manufacturer training where possible.

Corrective Action: Duty & Accountability

Finally, I'll talk about the actions we're taking regarding duty and accountability.

As the facts of the Boston Road Plaza and Morris Houses incidents surfaced, I was struck by staff attitudes and how they lacked a sense of urgency, and their failure to act proactively or at all to prevent future injury or accident. If a NYCHA employee has knowledge of an elevator risk—or any dangerous condition—that threatens safety (whether real or rumored), it is incumbent upon every employee

to act, communicate, and escalate. This message is already part of our training, procedures and code of conduct, but it needs to be reinforced in numerous ways.

- Disciplinary actions were taken against 6 employees who failed to do their job and enforce the safety of NYCHA residents in connection with the Boston Road Plaza accident. Five employees have been reassigned and the head of the elevator division has been relieved of his day-to-day duties related to monitoring building codes and inspections. A new Acting Director of Elevators, Ivo Nikolic, has been appointed. Mr. Nikolic holds a Master's Degree in Engineering and has demonstrated leadership in the areas of operational performance and quality assurance.
- Elevator staff must report all elevator problems to their supervisor and Customer Contact Center operators are to escalate calls to their shift supervisor if there is any question as to the level of danger being described. We are also improving the staff training at the call center and have expanded the materials made available to CCC staff.

Shifting NYCHA's Culture

What we learned from the Boston Road Plaza and Morris Houses incidents is that we must change NYCHA's culture – so that each and every employee is empowered to take ownership. A hazardous condition in our workplace is a hazardous condition in our residents' homes. Every employee, at every level is responsible for keeping NYCHA residents and developments safe.

First, NYCHA is beginning to shift this culture by changing the way we do business. One strategy we have implemented is empowering property managers by allowing them to make decisions at the local level. Property managers no longer have to wait for sign-off from senior staff to make decisions about their developments. This means property managers can build their own budgets, hire staff, and make emergency repairs faster. It translates to more ownership,

resulting in property managers who take more pride in their work, as well as ingraining in development staff a culture of responsibility.

Second, we will enhance and expand our Quality Assurance program. Currently, as part of our Elevator Safety Plan, NYCHA quality control inspectors carry out monthly elevator inspections citywide to ensure compliance with elevator procedures and policies. Based on these inspections, any inconsistencies found are adjusted and any necessary repairs are made. Moving forward, we will build upon our quality assurance inspections to ensure that employees at every level—from CCC call-takers to development and elevator staff—are following correct procedure to act, communicate, and escalate when there is a potential hazard that threatens the safety of NYCHA residents or employees.

In addition, I have implemented the following strategies:

- To help bridge the gap between central office and frontline staff, all senior NYCHA staff members dedicate a half day monthly to visit developments and meet with frontline staff. This is an opportunity for senior staff to hear from employees about what goes on at the property level, and to discuss first-hand how, with their help, the Authority can make NYCHA communities safe, clean, and connected for both residents and employees.
- To foster accountability at every level, we're working to enhance workplace safety training that reinforces the basic principles of "See Something, Say Something" when it comes to hazards in our workplace. We plan to take every opportunity to remind staff that our workplace, is also the place others call home. A hazard to staff is a hazard to residents.

Threaded throughout all of these corrective actions and initiatives is quality assurance—systems for evaluating whether new protocols, systems or trainings are actually working. This will help us constantly improve and identify additional weaknesses in our safety and response systems.

Conclusion

What happened in this tragedy is simply unacceptable. As the General Manager, I will ensure that we do better because we must do better and because our residents deserve better.

Thank you for the opportunity to testify today and I am happy to answer any questions you may have.

ASSEMBLY COMMITTEE AGENDA



WENDY E. SAUNDERS
Director
State Legislative Affairs

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MEMORANDUM IN OPPOSITION

LEGISLATIVE REFERENCE A.8359-B – by M. of A. Wright – Ways and Means Committee
S.7026-A – by Senator Bonacic – Finance Committee

TITLE **AN ACT** to amend the labor law, in relation to requiring the licensing of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices.

SUMMARY OF PROVISIONS

This bill requires the licensing of persons engaged in the design, construction, operation, inspection, maintenance, alteration and repair of elevators and other automatic people moving devices and creates the New York State elevator safety and standards board.

REASONS FOR OPPOSITION

In New York City, there are approximately 60,000 elevators representing about 10% of all elevators nationwide. Each day, millions of New Yorkers ride in our City's elevators, which make approximately 30 million runs or about 500 hundred trips per elevator, per day. In 2011, there were 43 elevator accidents. That is a reduction of more than 60% since 2007 when there were 105 accidents. This year to date, there have been 12 accidents involving elevators.

Each year, approximately 155,000 elevator inspections are conducted in New York City. Under the Building Code, each elevator device must be tested and inspected annually. These are called Category 1 inspections, which are conducted by elevator maintenance companies that are hired by building owners. Category 1 inspections constitute 60,000 of the 155,000 inspections. In addition, each elevator is inspected once a year by private elevator inspection agencies under contract with the City. There are 60,000 of these inspections each year. The Department Of Buildings (DOB) also conducts audit inspections, accident investigation and acceptance tests for new and modernized elevators as well as responding to complaints. Together, these result in an additional 25,000 inspections per year. This means that each elevator is tested at least once and inspected at least twice during the course of a year. There is also a separate Category 5 inspection that must occur once every five years; 10,000 Category 5 inspections are performed each year.

A building owner hires a licensed Elevator Agency Director and that company's staff of inspectors to conduct installations, inspections and tests. An Agency Director has a minimum of 10 years' experience in the supervision of the assembly, installation, maintenance, repair, design or inspection of elevators and acts in a role similar to that of the General Contractor on a construction job. The Elevator Inspectors that work under the Director have a minimum of five years of satisfactory experience. During the Category 1 inspection, the elevator is tested without load and at inspection speed. The inspection is performed and witnessed by two separate and unrelated approved elevator agencies. This allows for a second objective company to record the

device's performance, ensuring a complete inspection. The requirement for a witnessing agency was newly mandated in the 2008 Building Code. The Category 5 inspection consists of a test with full load and at rated speed. Like the Category 1, both an inspecting elevator agency and a witnessing elevator agency are required. The supervising Agency Director may either witness these tests, or audit the results of their inspectors. For both Category 1 and Category 5 inspections and tests the Department's Elevator Inspectors perform audit inspections, spot checks on scheduled inspections and tests. Also, DOB Inspectors perform Acceptance Inspections at newly installed devices and modernizations.

Elevator mechanics are required to receive a license from the DOB in order to perform maintenance work on elevators in New York City. The bill seeks to amend provisions of section K101.1 of Chapter K1 of Appendix K and DOB licensing rule 101-07. The Department licenses 153 Elevator Agency Directors, 112 Co-Directors, and 721 elevator Inspectors. The bill would add the title Elevator Technician as an individual who engages in "altering, inspecting, maintaining, repairing, servicing or testing elevators", but would also need to include installations. Currently, the work described here is done by a person simply called a "mechanic". It is estimated that there are roughly 5000-7000 mechanics working in the City, some of whom are included in union apprenticeship programs.

When discussing licenses, it is important to know that the City stresses the strong relationship between training, work experience and education. DOB is currently analyzing the proposed licensing construct but maintain that we need input from the industry and stakeholders before moving forward. DOB envisions a structure where these workers would not only receive initial training, but also complete continuing education in the form of annual or biannual course credits.

Accordingly, it is urged that this bill be disapproved.

Respectfully submitted,

WENDY E. SAUNDERS
Director

KP: 6/20/12

S T A T E O F N E W Y O R K

1945--A

2015-2016 Regular Sessions

I N S E N A T E

January 15, 2015

Introduced by Sens. BONACIC, SAVINO, ADDABBO, AVELLA, BOYLE, BRESLIN, CARLUCCI, COMRIE, DILAN, ESPAILLAT, FLANAGAN, FUNKE, GALLIVAN, GIANARIS, GOLDEN, GRIFFO, HAMILTON, HANNON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, LANZA, LARKIN, LATIMER, MARTINS, MONTGOMERY, MURPHY, ORTT, PANEPINTO, PARKER, PERALTA, PERKINS, RITCHIE, RIVERA, ROBACH, SANDERS, SERRANO, SQUADRON, STAVISKY, VALESKY, VENDITTO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law and the state finance law, in relation to requiring the licensing of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The labor law is amended by adding a new article 33 to read as follows:

ARTICLE 33

ELEVATORS AND OTHER CONVEYANCES; LICENSING

SECTION 950. LEGISLATIVE FINDINGS AND DECLARATION.

951. APPLICATION.

952. DEFINITIONS.

953. LICENSING, PERMIT, REGISTRATION AND COMPLIANCE REQUIREMENTS.

954. LICENSE AND PERMIT PROCEDURE.

955. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION.

956. POWERS OF THE COMMISSIONER.

957. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD.

958. EXEMPT PERSONS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD02916-02-6

A01787 Summary:

BILL NO A01787A

SAME AS No Same as

SPONSOR Wright

COSPNR Miller, Benedetto, Ortiz, Moya, Colton, Galef, Markey, Quart, Simanowitz, Ramos, Rozic, Mosley, Skoufis, Gunther, Aubry, Dilan, Gottfried, Mayer, Bronson, Jaffee, Davila, Kavanagh, Titus, Crespo, Titone, Abinanti, Steck, Harris, Raia, Rosenthal, Thiele, Goldfeder, Montesano, Peoples-Stokes, Bichotte, Linares, Malliotakis, Walker, Schimel, Ceretto, Blake, O'Donnell, Gjonaj, Zebrowski, Santabarbara, Seawright, Pichardo, Joyner, Murray, Lupinacci, Simotas, Russell, Lalor, Jean-Pierre, Cahill, Walter, Kim, Hikind, Weprin

MLTSPNSR Arroyo, Braunstein, Buchwald, Cook, Crouch, Curran, Cusick, DenDekker, Dinowitz, Englebright, Farrell, Giglio, Glick, Goodell, Graf, Hawley, Hevesi, Hooper, Lentol, Lupardo, Magee, Magnarelli, McDonald, McDonough, Nolan, Perry, Pretlow, Ra, Rodriguez, Ryan, Sepulveda, Simon, Tenney

Add Art 33 §§950 - 958, Lab L; add §97-pppp, St Fin L

Requires the licensing of persons engaged in the design, construction, operation, inspection, maintenance, alteration and repair of elevators and other automated people moving conveyances and creates the New York state elevator safety and standards board and the elevator and related conveyances safety program account.

A01787 Votes:

A01787 06/19/2015

129/12

Abbate	Y	Corwin	NO	Goodell	NO	Lupardo	Y	Paulin	Y	Silver	Y
Abinanti	Y	Crespo	Y	Gottfried	Y	Lupinacci	Y	Peoples-Stokes	Y	Simanowitz	Y
Arroyo	Y	Crouch	Y	Graf	Y	Magee	Y	Perry	Y	Simon	Y
Aubry	Y	Curran	Y	Gunther	ER	Magnarelli	Y	Persaud	Y	Simotas	Y
Barclay	Y	Cusick	Y	Hawley	NO	Malliotakis	Y	Pichardo	Y	Skartados	Y
Barrett	Y	Cymbrowitz	Y	Hevesi	ER	Markey	ER	Pretlow	Y	Skoufis	Y
Barron	Y	Davila	Y	Hikind	ER	Mayer	Y	Quart	Y	Solages	Y
Benedetto	Y	DenDekker	Y	Hooper	Y	McDonald	NO	Ra	Y	Stec	NO
Bichotte	Y	Dilan	Y	Jaffee	Y	McDonough	Y	Raia	Y	Steck	Y
Blake	Y	Dinowitz	Y	Jean-Pierre	Y	McKevitt	Y	Ramos	Y	Stirpe	Y
Blankenbush	NO	DiPietro	ER	Johns	Y	McLaughlin	Y	Richardson	Y	Tedisco	Y
Borelli	Y	Duprey	Y	Joyner	Y	Miller	Y	Rivera	Y	Tenney	Y
Brabenec	Y	Englebright	Y	Kaminsky	Y	Montesano	Y	Roberts	ER	Thiele	Y
Braunstein	Y	Fahy	Y	Katz	ER	Morelle	Y	Robinson	Y	Titone	Y
Brennan	Y	Farrell	Y	Kavanagh	Y	Mosley	Y	Rodriguez	Y	Titus	Y
Brindisi	Y	Finch	Y	Kearns	Y	Moya	Y	Rosenthal	Y	Walker	Y
Bronson	Y	Fitzpatrick	NO	Kim	Y	Murray	Y	Rozic	Y	Walter	Y
Brook-Krasny	Y	Friend	NO	Kolb	Y	Nojay	NO	Russell	Y	Weinstein	Y
Buchwald	Y	Galef	Y	Lalor	NO	Nolan	Y	Ryan	Y	Weprin	Y
Butler	Y	Gantt	Y	Lavine	Y	Oaks	Y	Saladino	Y	Woerner	Y
Cahill	Y	Garbarino	Y	Lawrence	Y	O'Donnell	Y	Santabarbara	Y	Wozniak	NO
Ceretto	Y	Giglio	Y	Lentol	Y	Ortiz	Y	Schimel	Y	Wright	Y
Clark	ER	Gjonaj	Y	Lifton	Y	Otis	Y	Schimminger	Y	Zebrowski	Y
Colton	Y	Glick	Y	Linares	Y	Palmesano	NO	Seawright	Y	Mr Spkr	Y
Cook	Y	Goldfeder	Y	Lopez	Y	Palumbo	Y	Sepulveda	Y		

A01787 Memo:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A1787A**SPONSOR:** Wright (MS)**TITLE OF BILL:**

An act to amend the labor law and the state finance law, in relation to requiring the licensing of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices

PURPOSE:

1 S 950. LEGISLATIVE FINDINGS AND DECLARATION. THE LEGISLATURE HEREBY
2 FINDS THAT THE USE OF UNSAFE AND DEFECTIVE ELEVATORS AND OTHER AUTOMATED
3 PEOPLE MOVING CONVEYANCES MAY EXPOSE THE PUBLIC TO UNSAFE CONDITIONS AND
4 INCREASE THE RISK OF INJURY. THE LEGISLATURE FINDS THAT IMPROPER DESIGN,
5 CONSTRUCTION, MAINTENANCE AND REPAIR OF SUCH CONVEYANCES IS PREVENTABLE
6 BY REQUIRING PROPER TRAINING OF PERSONS EMPLOYED TO PERFORM WORK ON
7 ELEVATORS AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES AND BY REQUIRING
8 THE LICENSING OF CONTRACTORS AND THE CERTIFICATION OF INDIVIDUALS
9 INVOLVED IN ELEVATOR AND OTHER AUTOMATED PEOPLE MOVING CONVEYANCES
10 PROJECTS.

11 NOTHING IN THIS ARTICLE IS INTENDED TO CREATE, EXPAND, DIMINISH,
12 LIMIT, IMPAIR, OR SUPERSEDE ANY RIGHTS UNDER CURRENT LAW, RULE, OR REGU-
13 LATION, OR RESULTING FROM A DETERMINATION OF A COURT OR THE NATIONAL
14 LABOR RELATIONS BOARD WITH REGARD TO BUILDING TRADES AND THE WORK OF
15 SUCH BUILDING TRADE. NOR IS IT INTENDED TO ABROGATE ANY RIGHTS OR DUTIES
16 UNDER ANY CONTRACT WITH REGARD TO BUILDING TRADES AND THE WORK OF SUCH
17 BUILDING TRADE.

18 S 951. APPLICATION. 1. THE DESIGN, CONSTRUCTION, ERECTION, INSTALLA-
19 TION, INSPECTION, TESTING, MAINTENANCE, ALTERATION, SERVICE, AND REPAIR
20 OF THE FOLLOWING EQUIPMENT ARE COVERED BY THIS ARTICLE:

21 (A) HOISTING AND LOWERING MECHANISMS EQUIPPED WITH A CAR OR PLATFORM
22 WHICH MOVES BETWEEN TWO OR MORE LANDINGS. THIS EQUIPMENT INCLUDES, BUT
23 IS NOT LIMITED TO ELEVATORS, PLATFORM LIFTS AND STAIRWAY CHAIR LIFTS;

24 (B) POWER DRIVEN STAIRWAYS AND WALKWAYS FOR CARRYING PERSONS BETWEEN
25 LANDINGS. THIS EQUIPMENT INCLUDES, BUT IS NOT LIMITED TO, ESCALATORS
26 AND MOVING WALKS;

27 (C) HOISTING AND LOWERING MECHANISMS EQUIPPED WITH A CAR, WHICH SERVES
28 TWO OR MORE LANDINGS AND IS RESTRICTED TO THE CARRYING OF MATERIAL BY
29 ITS LIMITED SIZE OR LIMITED ACCESS TO THE CAR. THIS EQUIPMENT INCLUDES,
30 BUT IS NOT LIMITED TO, DUMBWAITERS, MATERIAL LIFTS, AND DUMBWAITERS WITH
31 AUTOMATIC TRANSFER DEVICES AS DEFINED IN SECTION NINE HUNDRED FIFTY-TWO
32 OF THIS ARTICLE; AND

33 (D) AUTOMATIC GUIDED TRANSIT VEHICLES ON GUIDEWAYS WITH AN EXCLUSIVE
34 RIGHT OF WAY. THIS EQUIPMENTS INCLUDES, BUT IS NOT LIMITED TO, AUTO-
35 MATED PEOPLE MOVERS.

36 2. THE FOLLOWING EQUIPMENT IS NOT COVERED BY THIS ARTICLE:

37 (A) MATERIAL HOISTS;

38 (B) MANLIFTS;

39 (C) MOBILE SCAFFOLDS, TOWERS, AND PLATFORMS;

40 (D) POWERED PLATFORMS AND EQUIPMENT FOR EXTERIOR AND INTERIOR MAINTE-
41 NANCE;

42 (E) CONVEYOR AND RELATED EQUIPMENT;

43 (F) CRANES, DERRICKS, HOISTS, HOOKS, JACKS AND SLINGS;

44 (G) INDUSTRIAL TRUCKS;

45 (H) PORTABLE EQUIPMENT, EXCEPT FOR PORTABLE ESCALATORS;

46 (I) TIERING AND PILING MACHINES USED TO MOVE MATERIALS TO AND FROM
47 STORAGE LOCATED AND OPERATING ENTIRELY WITHIN ONE STORY;

48 (J) EQUIPMENT FOR FEEDING OR POSITIONING MATERIALS INCLUDING, BUT NOT
49 LIMITED TO, MACHINE TOOLS AND PRINTING PRESSES;

50 (K) SKIP OR FURNACE HOISTS;

51 (L) WHARF RAMPS;

52 (M) RAILROAD CAR LIFTS OR DUMPERS;

53 (N) LINE JACKS, FALSE CARS, SHAFTERS, MOVING PLATFORMS AND SIMILAR
54 EQUIPMENT USED FOR INSTALLING AN ELEVATOR BY A CONTRACTOR LICENSED IN
55 THIS STATE.

1 3. THE LICENSING, PERMITTING AND CERTIFICATION PROVISIONS OF THIS
2 ARTICLE SHALL NOT APPLY TO THE OWNERS OR LESSEES OF PRIVATE RESIDENCES
3 WHO DESIGN, ERECT, CONSTRUCT, INSTALL, ALTER, REPAIR, SERVICE OR MAIN-
4 TAIN CONVEYANCES THAT ARE LOCATED OR WILL BE LOCATED IN SUCH OWNER OR
5 LESSEE'S PRIVATE RESIDENCE. HOWEVER, ANY PERSON HIRED TO DESIGN, ERECT,
6 CONSTRUCT, INSTALL, ALTER, REPAIR, SERVICE, MAINTAIN, OR PERFORM ANY
7 OTHER WORK RELATED TO SUCH CONVEYANCES MUST COMPLY WITH THE PROVISIONS
8 OF THIS ARTICLE.

9 4. NO LICENSE SHALL BE REQUIRED FOR THE REMOVAL OR DISMANTLING OF
10 CONVEYANCES.

11 5. THE PROVISIONS OF THIS ARTICLE AND THE RULES ADOPTED PURSUANT THER-
12 ETO SHALL BE THE MINIMUM STANDARD REQUIRED AND SHALL SUPERSEDE ANY
13 SPECIAL LAW OR LOCAL ORDINANCE INCONSISTENT THEREWITH, AND NO LOCAL
14 ORDINANCE INCONSISTENT THEREWITH SHALL BE ADOPTED, BUT NOTHING HEREIN
15 CONTAINED SHALL PREVENT THE ENACTMENT BY LOCAL LAW OR ORDINANCE OF ADDI-
16 TIONAL REQUIREMENTS AND RESTRICTIONS.

17 S 952. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
18 HAVE THE FOLLOWING DEFINITIONS:

19 1. "AUTOMATED PEOPLE MOVER" MEANS A GUIDED TRANSIT MODE WITH FULLY
20 AUTOMATED OPERATION, FEATURING VEHICLES THAT OPERATE ON GUIDEWAYS WITH
21 EXCLUSIVE RIGHT-OF-WAY.

22 2. "BOARD" MEANS THE NEW YORK STATE ELEVATOR SAFETY AND STANDARDS
23 BOARD ESTABLISHED BY SECTION NINE HUNDRED FIFTY-SEVEN OF THIS ARTICLE.

24 3. "CERTIFICATE OF OPERATION" MEANS A DOCUMENT ISSUED BY THE COMMIS-
25 SIONER THAT INDICATES THAT THE ELEVATOR OR RELATED CONVEYANCE HAS HAD
26 THE REQUIRED SAFETY INSPECTION AND TESTS AND THAT THE FEES REQUIRED BY
27 THIS ARTICLE HAVE BEEN PAID.

28 4. "TEMPORARY CERTIFICATE OF OPERATION" MEANS A DOCUMENT ISSUED BY THE
29 COMMISSIONER WHICH PERMITS THE TEMPORARY USE OF A NON-COMPLIANT ELEVATOR
30 OR RELATED CONVEYANCE BY THE GENERAL PUBLIC FOR A LIMITED TIME, NOT TO
31 EXCEED THIRTY DAYS, WHILE MINOR REPAIRS ARE BEING COMPLETED.

32 5. "CONVEYANCE" MEANS ANY ELEVATOR, DUMBWAITER, ESCALATOR, MOVING
33 SIDEWALK, PLATFORM LIFTS, STAIRWAY CHAIRLIFTS AND AUTOMATED PEOPLE
34 MOVERS.

35 6. "DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN INSTALLATION
36 PLACED OUT OF SERVICE UNDER THE FOLLOWING CIRCUMSTANCES: (A) WHEN AN
37 INSTALLATION'S POWER HAS BEEN DISCONNECTED AND (I) WHEN AN ELECTRIC
38 ELEVATOR, DUMBWAITER, OR MATERIAL LIFT WHOSE SUSPENSION ROPES HAVE BEEN
39 REMOVED, WHOSE CAR AND COUNTERWEIGHT REST AT THE BOTTOM OF THE HOISTWAY,
40 AND WHOSE HOISTWAY DOORS HAVE BEEN PERMANENTLY BARRICADED OR SEALED IN
41 THE CLOSED POSITION ON THE HOISTWAY SIDE; OR (II) A HYDRAULIC ELEVATOR,
42 DUMBWAITER, OR MATERIAL LIFT WHOSE CAR RESTS AT THE BOTTOM OF THE HOIST-
43 WAY AND WHOSE DOORS ARE PERMANENTLY BARRICADED OR SEALED; OR (III) AN
44 ESCALATOR OR MOVING WALK WHOSE ENTRANCES HAVE BEEN PERMANENTLY BARRICAD-
45 ED; OR (B) AS DETERMINED BY STATE OR LOCAL LAW, CODE, RULE, OR REGU-
46 LATIONS.

47 7. "ELEVATOR" MEANS A HOISTING AND LOWERING MECHANISM, EQUIPPED WITH A
48 CAR, THAT MOVES WITHIN GUIDES AND SERVES TWO OR MORE LANDINGS.

49 8. "ELEVATOR CONTRACTOR" MEANS, A PUBLIC CORPORATION, OR INSTRUMENTAL-
50 ITY OF A PUBLIC CORPORATION, SELF-EMPLOYED PERSON, COMPANY, UNINCORPO-
51 RATED ASSOCIATION, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPO-
52 RATION, OR ANY OTHER ENTITY, OR ANY OWNER OR OPERATOR OF ANY OF THE
53 FOREGOING ENTITIES, WHO POSSESSES AN ELEVATOR CONTRACTOR'S LICENSE IN
54 ACCORDANCE WITH THE PROVISIONS OF SECTIONS NINE HUNDRED FIFTY-THREE AND
55 NINE HUNDRED FIFTY-FOUR OF THIS ARTICLE AND IS ENGAGED IN THE BUSINESS
56 OF DESIGNING, ERECTING, CONSTRUCTING, INSTALLING, ALTERING, REPAIRING,

SERVICING OR MAINTAINING ELEVATORS OR OTHER AUTOMATED PEOPLE MOVING CONVEYANCES COVERED BY THIS ARTICLE.

9. "ELEVATOR HELPER/APPRENTICE/ASSISTANT MECHANIC" MEANS ANY PERSON WHO WORKS UNDER THE GENERAL DIRECTION OF A LICENSED ELEVATOR MECHANIC.

10. "ELEVATOR INSPECTOR" MEANS ANY PERSON WHO POSSESSES AN ELEVATOR INSPECTOR'S LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

11. "ELEVATOR MECHANIC" MEANS ANY PERSON WHO POSSESSES AN ELEVATOR MECHANIC'S LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

12. "ESCALATOR" MEANS POWER-DRIVEN, INCLINED, CONTINUOUS STAIRWAY USED FOR RAISING OR LOWERING PASSENGERS.

13. "EXISTING INSTALLATION" MEANS AN INSTALLATION THAT HAS BEEN COMPLETED OR IS UNDER CONSTRUCTION PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE.

14. "LICENSE" MEANS A LICENSE DULY ISSUED BY THE COMMISSIONER, AUTHORIZING THE DESIGN, ERECTION, CONSTRUCTION, INSTALLATION, ALTERATION, REPAIR, SERVICE, MAINTENANCE, OR INSPECTION OF ELEVATORS OR OTHER CONVEYANCES COVERED BY THIS ARTICLE.

15. "ELEVATOR CONTRACTOR'S LICENSE" MEANS A LICENSE WHICH ENTITLES THE HOLDER THEREOF TO ENGAGE IN THE BUSINESS OF DESIGNING, ERECTING, CONSTRUCTING, INSTALLING, ALTERING, REPAIRING, SERVICING OR MAINTAINING CONVEYANCES COVERED BY THIS ARTICLE.

16. "ELEVATOR INSPECTOR'S LICENSE" MEANS A LICENSE WHICH ENTITLES THE HOLDER THEREOF TO ENGAGE IN THE BUSINESS OF INSPECTING OR TESTING CONVEYANCES COVERED BY THIS ARTICLE.

17. "ELEVATOR MECHANIC'S LICENSE" MEANS A LICENSE WHICH ENTITLES THE HOLDER THEREOF TO INSTALL, CONSTRUCT, ALTER, SERVICE, REPAIR, TEST, MAINTAIN, AND PERFORM WORK ON CONVEYANCES OR OTHER AUTOMATED PEOPLE MOVERS COVERED BY THIS ARTICLE.

18. "MOVING WALK/SIDEWALK" MEANS A TYPE OF PASSENGER-CARRYING DEVICE ON WHICH PASSENGERS STAND OR WALK, AND IN WHICH THE PASSENGER-CARRYING SURFACE REMAINS PARALLEL TO ITS DIRECTION OF MOTION AND IS UNINTERRUPTED.

19. "PERMIT" MEANS A DOCUMENT ISSUED BY THE COMMISSIONER PRIOR TO THE COMMENCEMENT OF WORK THAT PERMITS A CONVEYANCE TO BE ERECTED, CONSTRUCTED, INSTALLED, OR ALTERED UNDER PLANS APPROVED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE.

20. "PERSON" MEANS ANY NATURAL PERSON.

21. "PRIVATE RESIDENCE" MEANS A SEPARATE DWELLING OR A SEPARATE APARTMENT IN A MULTIPLE DWELLING, WHICH IS OCCUPIED BY MEMBERS OF A SINGLE FAMILY UNIT.

22. "REPAIR" MEANS RECONDITIONING OR RENEWAL OF PARTS, COMPONENTS, AND/OR SUBSYSTEMS NECESSARY TO KEEP EQUIPMENT IN COMPLIANCE WITH APPLICABLE CODE REQUIREMENTS.

23. "ALTERATION" MEANS ANY CHANGE TO EQUIPMENT, INCLUDING ITS PARTS, COMPONENTS, AND/OR SUBSYSTEMS, OTHER THAN MAINTENANCE, REPAIR, OR REPLACEMENT, BUT SHALL NOT INCLUDE THE PROFESSIONAL SERVICES OF ENGINEERING OR ARCHITECTURE AS DEFINED IN SECTIONS SEVENTY-TWO HUNDRED ONE AND SEVENTY-THREE HUNDRED ONE OF THE EDUCATION LAW.

24. "DESIGN" MEANS THE ACT OR PROCESS OF PLANNING THE REPAIR, ALTERATION OR CONSTRUCTION OF ANY CONVEYANCE, BUT SHALL NOT INCLUDE THE PROFESSIONAL SERVICES OF ENGINEERING OR ARCHITECTURE AS DEFINED IN SECTIONS SEVENTY-TWO HUNDRED ONE AND SEVENTY-THREE HUNDRED ONE OF THE EDUCATION LAW.

25. "CONSTRUCTION" MEANS THE ACT OR PROCESS OF CONSTRUCTING ANY CONVEYANCE.

1 26. "INSPECTION" MEANS A CRITICAL EXAMINATION, OBSERVATION OR EVALU-
2 ATION OF QUALITY AND CODE COMPLIANCE OF ANY CONVEYANCE.

3 27. "TESTING" MEANS A PROCESS OR TRIAL OF OPERATION OF ANY CONVEYANCE.

4 28. "MAINTENANCE" MEANS A PROCESS OF ROUTINE EXAMINATION, LUBRICATION,
5 CLEANING, AND ADJUSTMENT OF PARTS, COMPONENTS, AND/OR SUBSYSTEMS FOR THE
6 PURPOSE OF ENSURING PERFORMANCE IN ACCORDANCE WITH ANY APPLICABLE CODE
7 REQUIREMENTS.

8 29. "SERVICE OR SERVICING" MEANS A SERVICE CALL OR OTHER UNSCHEDULED
9 VISIT, NOT INCLUDING ROUTINE MAINTENANCE OR A REPAIR, FROM A LICENSED
10 ELEVATOR MECHANIC TO TROUBLESHOOT, ADJUST OR REPAIR AN IMPROPERLY FUNC-
11 TIONING OR AN OTHERWISE SHUT DOWN CONVEYANCE.

12 30. "TEMPORARILY DORMANT ELEVATOR, DUMBWAITER, OR ESCALATOR" MEANS AN
13 INSTALLATION TEMPORARILY PLACED OUT OF SERVICE UNDER THE FOLLOWING
14 CIRCUMSTANCES: (A) (I) WHEN SUCH INSTALLATION'S POWER SUPPLY HAS BEEN
15 DISCONNECTED; AND (II) THE CAR IS PARKED AND ANY DOORS ARE CLOSED AND
16 LATCHED; AND (III) A WIRE SEAL IS INSTALLED ON THE MAINLINE DISCONNECT
17 SWITCH BY A LICENSED ELEVATOR INSPECTOR; OR (B) AS DETERMINED BY STATE
18 OR LOCAL LAW, CODE, RULE, OR REGULATION.

19 31. "ERECT" MEANS TO VERTICALLY CONSTRUCT OR CONNECT ANY CONVEYANCE OR
20 PART OR SYSTEM THEREOF.

21 32. "INSTALLATION" MEANS TO PLACE OR FIX ANY CONVEYANCE OR PART OR
22 SYSTEM THEREOF, IN POSITION FOR OPERATION.

23 TEMPORARILY DORMANT INSTALLATIONS SHALL NOT BE USED UNTIL SUCH INSTAL-
24 LATION HAS BEEN RESTORED TO A SAFE RUNNING ORDER AND IS IN CONDITION
25 SUITABLE FOR USE IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES, RULES
26 AND REGULATIONS. SUCH TEMPORARILY DORMANT INSTALLATION SHALL BE SUBJECT
27 TO CONTINUED INSPECTIONS FOR THE DURATION OF THE "TEMPORARILY DORMANT"
28 STATUS BY A LICENSED ELEVATOR INSPECTOR. SUCH INSPECTOR SHALL FILE A
29 REPORT WITH THE COMMISSIONER DESCRIBING THE CONDITIONS OF SUCH TEMPORAR-
30 ILY DORMANT INSTALLATION. THE REPORT SHALL BE FILED ANNUALLY OR MORE OR
31 LESS FREQUENT AS DETERMINED BY THE COMMISSIONER. "TEMPORARILY DORMANT"
32 STATUS SHALL BE RENEWABLE ON AN ANNUAL BASIS, BUT SHALL NOT EXCEED A
33 FIVE-YEAR PERIOD.

34 NO PERSON SHALL REMOVE THE WIRE SEAL AND PADLOCK FOR ANY PURPOSE WITH-
35 OUT THE EXPRESS PERMISSION OF THE ELEVATOR INSPECTOR.

36 S 953. LICENSING, PERMIT, REGISTRATION AND COMPLIANCE REQUIREMENTS. 1.
37 EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
38 SECTION NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION
39 OF THIS ARTICLE FOR ANY ELEVATOR CONTRACTOR TO DESIGN, ERECT, CONSTRUCT,
40 INSTALL, ALTER, REPLACE, SERVICE, OR MAINTAIN, ANY CONVEYANCE CONTAINED
41 WITHIN BUILDINGS OR STRUCTURES IN THIS STATE UNLESS SUCH ELEVATOR
42 CONTRACTOR HOLDS AN ELEVATOR CONTRACTOR'S LICENSE.

43 2. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
44 SECTION NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION
45 OF THIS ARTICLE FOR ANY PERSON TO WIRE ANY CONVEYANCE, FROM THE MAINLINE
46 FEEDER TERMINALS ON THE CONTROLLER, IN THIS STATE UNLESS SUCH PERSON HAS
47 AN ELEVATOR MECHANIC'S LICENSE AND IS WORKING UNDER THE DIRECT SUPER-
48 VISION OF A LICENSED ELEVATOR CONTRACTOR PURSUANT TO THIS ARTICLE. NO
49 OTHER LICENSE SHALL BE REQUIRED FOR THIS WORK, EXCLUDING THE INSTALLA-
50 TION OF BRANCH CIRCUITS AND WIRING TERMINATIONS FOR MACHINE ROOM AND PIT
51 LIGHTING, RECEPTACLES AND HVAC AS DESCRIBED IN THE NFPA NATIONAL ELEC-
52 TRIC CODE 620.23 AND 620.24 AS WELL AS FIRE AND HEAT DETECTORS AND
53 ALARMS, MAY BE PERFORMED BY A LICENSED ELECTRICAL CONTRACTOR. ADDI-
54 TIONALLY, WITHIN NEW YORK CITY, THE INSTALLATION OF BRANCH CIRCUITS AND
55 WIRING TERMINATIONS FOR THE CAR FAN, LIGHTS AND RECEPTACLES, AS
56 DESCRIBED IN THE NFPA NATIONAL ELECTRIC CODE 620.22, AND INTERCOMS AND

1 VOICE COMMUNICATIONS AS WELL AS SIGNAL EQUIPMENT OR SYSTEMS, AS DEFINED
2 IN NFPA ARTICLE 620.2, THAT IS NOT DIRECTLY ASSOCIATED WITH THE OPERA-
3 TION OR SAFETY OF ANY CONVEYANCE, MAY BE PERFORMED BY A LICENSED ELEC-
4 TRICAL CONTRACTOR.

5 3. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISION THREE OF SECTION
6 NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION OF THIS
7 ARTICLE FOR ANY PERSON TO INSPECT OR TEST ANY CONVEYANCE WITHIN BUILD-
8 INGS OR STRUCTURES UNLESS SUCH PERSON HOLDS AN ELEVATOR INSPECTOR'S
9 LICENSE.

10 4. EXCEPT AS OTHERWISE PROVIDED FOR IN SUBDIVISIONS THREE AND FOUR OF
11 SECTION NINE HUNDRED FIFTY-ONE OF THIS ARTICLE, IT SHALL BE A VIOLATION
12 OF THIS ARTICLE FOR ANY ELEVATOR CONTRACTOR TO ERECT, CONSTRUCT,
13 INSTALL, OR ALTER CONVEYANCES WITHIN BUILDINGS OR STRUCTURES WITHIN THIS
14 STATE UNLESS A PERMIT THEREFOR HAS BEEN ISSUED BY THE COMMISSIONER
15 BEFORE WORK IS COMMENCED. NO PERMIT SHALL BE ISSUED EXCEPT TO A PERSON
16 HOLDING A VALID ELEVATOR CONTRACTOR'S LICENSE. A COPY OF SUCH PERMIT
17 SHALL BE KEPT AT THE CONSTRUCTION SITE AT ALL TIMES WHILE THE WORK IS IN
18 PROGRESS.

19 5. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION NINE
20 HUNDRED FIFTY-ONE OF THIS ARTICLE, ALL NEW CONVEYANCE INSTALLATIONS
21 SHALL BE PERFORMED BY AN ELEVATOR CONTRACTOR LICENSED TO INSTALL SUCH
22 CONVEYANCE. SUBSEQUENT TO INSTALLATION, THE ELEVATOR CONTRACTOR MUST
23 CERTIFY COMPLIANCE TO THE COMMISSIONER WITH THE APPLICABLE SECTIONS OF
24 THIS ARTICLE AS WELL AS ANY OTHER APPLICABLE LAW, RULE, REGULATION OR
25 CODE. PRIOR TO SUCH CONVEYANCES BEING USED, THE PROPERTY OWNER OR
26 LESSEE MUST OBTAIN A CERTIFICATE OF OPERATION FROM THE COMMISSIONER. A
27 FEE, AS SET FORTH IN THIS ARTICLE, SHALL BE PAID FOR SUCH CERTIFICATE OF
28 OPERATION, HOWEVER, NO SUCH FEE SHALL BE REQUIRED FOR CONVEYANCES IN
29 PRIVATE RESIDENCES. IT IS THE RESPONSIBILITY OF THE LICENSED ELEVATOR
30 CONTRACTOR TO COMPLETE AND SUBMIT REGISTRATIONS FOR NEW INSTALLATIONS.
31 A CERTIFICATE OF OPERATION SHALL BE VALID FOR ONE YEAR, EXCEPT FOR
32 CERTIFICATES ISSUED FOR PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE
33 RESIDENCES, WHICH SHALL BE VALID FOR A PERIOD OF THREE YEARS. CERTIF-
34 ICATES OF OPERATION MUST BE CLEARLY AND CONSPICUOUSLY DISPLAYED ON, IN
35 OR AROUND EACH CONVEYANCE AND BE ACCESSIBLE TO THE STATE OR LOCALITY
36 INSPECTING OR ENFORCING ANY APPLICABLE LAW, RULE, REGULATION OR CODE.

37 6. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION NINE
38 HUNDRED FIFTY-ONE OF THIS ARTICLE, THE CERTIFICATE OF OPERATION FOR
39 NEWLY INSTALLED PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESI-
40 DENCES SHALL BE ISSUED ONLY SUBSEQUENT TO AN INSPECTION BY A LICENSED
41 THIRD PARTY INSPECTION FIRM. THE CERTIFICATE OF OPERATION FEE FOR ALL
42 NEW AND EXISTING PLATFORM AND STAIRWAY CHAIRLIFTS FOR PRIVATE RESIDENCES
43 AND ANY RENEWAL CERTIFICATE FEES ARE HEREBY WAIVED. THE INSPECTION OF
44 PRIVATE RESIDENCE PLATFORM AND STAIRWAY CHAIRLIFTS SHALL BE DONE AT THE
45 REQUEST AND CONSENT OF THE PRIVATE RESIDENCE'S OWNER OR LESSEES.

46 7. IT SHALL BE THE RESPONSIBILITY OF LICENSEES TO ENSURE THAT THE
47 INSTALLATION, SERVICE OR MAINTENANCE OF CONVEYANCES IS PERFORMED IN
48 COMPLIANCE WITH EXISTING STATE AND LOCAL BUILDING AND MAINTENANCE CODES.

49 S 954. LICENSE AND PERMIT PROCEDURE. ALL APPLICATIONS FOR ELEVATOR
50 CONTRACTOR'S, ELEVATOR MECHANIC'S, AND ELEVATOR INSPECTOR'S LICENSES AND
51 REQUIRED PERMITS SHALL BE SUBMITTED TO THE DEPARTMENT IN WRITING ON
52 FORMS FURNISHED BY THE COMMISSIONER AND SHALL CONTAIN THE INFORMATION
53 SET FORTH IN THIS SECTION AS WELL AS ANY ADDITIONAL INFORMATION THAT THE
54 COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL ALSO SET FEES FOR
55 LICENSING AND PERMITTING UNDER THIS SECTION.

1 1. APPLICATIONS FOR LICENSES. EVERY APPLICATION FOR A LICENSE UNDER
2 THIS ARTICLE SHALL INCLUDE THE FOLLOWING:

3 (A) THE NAME, RESIDENCE ADDRESS AND BUSINESS ADDRESS OF THE APPLICANT;

4 (B) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE BUSINESS OR
5 PRACTICE OF DESIGNING, CONSTRUCTING, ERECTING, INSTALLING, INSPECTING,
6 TESTING, REPAIRING, ALTERING, MAINTAINING, OR SERVICING CONVEYANCES
7 COVERED BY THIS ARTICLE;

8 (C) THE APPROXIMATE NUMBER OF PERSONS, IF ANY, TO BE EMPLOYED BY THE
9 APPLICANT FOR AN ELEVATOR CONTRACTOR'S LICENSE;

10 (D) EVIDENCE THAT THE APPLICANT IS OR WILL BE COVERED BY GENERAL
11 LIABILITY, PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE; AND

12 (E) ANY OTHER INFORMATION WHICH THE COMMISSIONER MAY REQUIRE.

13 UPON APPROVAL OF AN APPLICATION FOR A LICENSE THE COMMISSIONER SHALL
14 ISSUE SUCH LICENSE WHICH SHALL BE VALID FOR TWO YEARS. THE FEES FOR SUCH
15 LICENSE AND RENEWAL THEREOF SHALL BE SET BY THE COMMISSIONER. ANY DENIAL
16 FOR SUCH APPLICATION SHALL SET FORTH THE REASONS THEREFOR.

17 2. APPLICATION FOR PERMITS. EVERY APPLICATION FOR A PERMIT UNDER THIS
18 ARTICLE SHALL INCLUDE PLANS AND SPECIFICATIONS STAMPED AND SIGNED BY A
19 PROFESSIONAL ENGINEER AND/OR AN ARCHITECT LICENSED PURSUANT TO ARTICLE
20 ONE HUNDRED FORTY-FIVE AND/OR ARTICLE ONE HUNDRED FORTY-SEVEN OF THE
21 EDUCATION LAW. EVERY APPLICATION FOR A PERMIT UNDER THIS ARTICLE SHALL
22 INCLUDE THE FOLLOWING:

23 (A) COPIES OF THE SPECIFICATIONS AND ACCURATELY SCALED AND FULLY
24 DIMENSIONED PLANS SHOWING THE LOCATION OF THE INSTALLATION IN RELATION
25 TO THE PLANS AND ELEVATION OF THE BUILDING;

26 (B) THE LOCATION OF THE MACHINERY ROOM AND THE EQUIPMENT TO BE
27 INSTALLED, RELOCATED OR ALTERED;

28 (C) ALL STRUCTURAL SUPPORTING MEMBERS THEREOF, INCLUDING FOUNDATIONS;

29 (D) A LIST OF ALL MATERIALS TO BE EMPLOYED AND ALL LOADS TO BE
30 SUPPORTED AND CONVEYED;

31 (E) ANY OTHER INFORMATION THAT THE COMMISSIONER MAY REQUIRE TO ENSURE
32 THAT SUCH PLANS AND SPECIFICATIONS ARE SUFFICIENTLY COMPLETE AND ILLUS-
33 TRATE ALL DETAILS OF CONSTRUCTION AND DESIGN; AND

34 (F) ANY REQUIRED PERMITTING FEES, WHICH ARE SUBJECT TO RETURN UPON
35 DENIAL OF A PERMIT APPLICATION.

36 UPON APPROVAL OF AN APPLICATION FOR A PERMIT THE COMMISSIONER SHALL
37 ISSUE SUCH PERMIT. SUCH PERMIT SHALL STATE THE TIME BY WHICH THE WORK
38 SHALL COMMENCE AND ALSO WHEN SUCH PERMIT EXPIRES. IF AFTER THE WORK HAS
39 BEEN STARTED, WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF SIXTY DAYS,
40 OR SUCH SHORTER PERIOD OF TIME AS THE COMMISSIONER MAY SPECIFY AT THE
41 TIME THE PERMIT IS ISSUED, THE PERMIT SHALL EXPIRE. UPON EXPIRATION OF
42 A PERMIT FOR WHICH WORK HAS NOT BEEN COMPLETED, THE COMMISSIONER MAY
43 EXTEND SUCH PERMIT.

44 3. LICENSING AND PERMITTING EXEMPTIONS. WHENEVER AN EMERGENCY EXISTS
45 IN THIS STATE DUE TO A DISASTER OR ACT OF GOD, WHICH IMPERILS THE
46 HEALTH, SAFETY OR WELFARE OF AN INDIVIDUAL OR INDIVIDUALS AND PLACING
47 SUCH INDIVIDUAL OR INDIVIDUALS IN IMMINENT DANGER OF INJURY OR DEATH AND
48 THE NUMBER OF PERSONS IN THE STATE HOLDING LICENSES GRANTED BY THE BOARD
49 IS INSUFFICIENT TO COPE WITH SUCH EMERGENCY, ANY PERSON CERTIFIED BY A
50 LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCU-
51 MENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITH DIRECT AND
52 IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC'S
53 LICENSE FROM THE COMMISSIONER WITHIN FIVE BUSINESS DAYS AFTER COMMENCING
54 WORK REQUIRING A LICENSE. THE COMMISSIONER SHALL ISSUE EMERGENCY ELEVA-
55 TOR MECHANIC'S LICENSES TO ADDRESS THE EMERGENCY THAT EXISTS. THE
56 LICENSED ELEVATOR CONTRACTOR SHALL FURNISH PROOF OF COMPETENCY AS THE

1 COMMISSIONER MAY REQUIRE. EACH SUCH LICENSE SHALL RECITE THAT IT IS
2 VALID FOR A PERIOD OF FIFTEEN DAYS FROM THE DATE THEREOF AND FOR SUCH
3 PARTICULAR ELEVATORS OR GEOGRAPHICAL AREAS AS THE COMMISSIONER MAY
4 DESIGNATE TO ADDRESS THE EMERGENCY SITUATION AND OTHERWISE SHALL ENTITLE
5 THE LICENSEE TO THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC'S
6 LICENSE ISSUED IN THIS ARTICLE. THE COMMISSIONER SHALL RENEW AN EMER-
7 GENCY ELEVATOR MECHANIC'S LICENSE DURING THE EXISTENCE OF AN EMERGENCY
8 AS NEEDED. NO FEE SHALL BE CHARGED FOR ANY EMERGENCY ELEVATOR MECHANIC'S
9 LICENSE OR RENEWAL THEREOF.

10 S 955. QUALIFICATIONS, TRAINING AND CONTINUING EDUCATION. 1. NO
11 LICENSE SHALL BE GRANTED TO ANY PERSON WHO HAS NOT PAID THE REQUIRED
12 APPLICATION FEE AND DEMONSTRATED HIS OR HER QUALIFICATIONS AND ABILI-
13 TIES. APPLICANTS FOR A MECHANIC'S LICENSE MUST DEMONSTRATE ONE OF THE
14 FOLLOWING QUALIFICATIONS: (A) AN ACCEPTABLE COMBINATION OF DOCUMENTED
15 EXPERIENCE AND EDUCATION CREDITS CONSISTING OF (I) NOT LESS THAN FOUR
16 YEARS WORK EXPERIENCE IN THE CONSTRUCTION, MAINTENANCE AND SERVICE
17 REPAIR OF ELEVATORS, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS AND
18 (II) SATISFACTORY COMPLETION OF A WRITTEN EXAMINATION, ADMINISTERED BY
19 THE COMMISSIONER, ON THE MOST RECENT NATIONAL, STATE, AND LOCAL CONVEY-
20 ANCES CODES AND STANDARDS; OR

21 (B) ACCEPTABLE PROOF THAT HE OR SHE HAS WORKED ON ELEVATOR
22 CONSTRUCTION, MAINTENANCE OR REPAIR WITH DIRECT AND IMMEDIATE SUPER-
23 VISION IN THIS STATE FOR A PERIOD OF NOT LESS THAN FOUR YEARS IMMEDIATE-
24 LY PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE, PROVIDED THAT SUCH
25 APPLICANT SHALL FILE SUCH APPLICATION WITHIN ONE YEAR OF THE EFFECTIVE
26 DATE OF THIS ARTICLE; OR

27 (C) A CERTIFICATE OF SUCCESSFUL COMPLETION AND SUCCESSFULLY PASSING
28 THE MECHANIC EXAMINATION OF A NATIONALLY RECOGNIZED TRAINING PROGRAM FOR
29 THE ELEVATOR INDUSTRY INCLUDING, BUT NOT LIMITED TO, THE NATIONAL ELEVA-
30 TOR INDUSTRY EDUCATIONAL PROGRAM OR ITS EQUIVALENT; OR

31 (D) CERTIFICATE OF SUCCESSFUL COMPLETION OF THE JOINT APPRENTICE AND
32 TRAINING COMMITTEE OF THE ELEVATOR INDUSTRY OF LOCAL 3, IBEW, EE DIVI-
33 SION TRAINING PROGRAM OR AN APPRENTICESHIP PROGRAM FOR ELEVATOR MECHAN-
34 ICS, HAVING STANDARDS SUBSTANTIALLY EQUAL TO THOSE OF THIS CHAPTER, AND
35 REGISTERED WITH THE BUREAU OF APPRENTICESHIP AND TRAINING, U.S. DEPART-
36 MENT OF LABOR OR A STATE APPRENTICESHIP COUNCIL.

37 2. APPLICANTS FOR AN ELEVATOR CONTRACTOR'S LICENSE MUST DEMONSTRATE TO
38 THE COMMISSIONER THAT SUCH ELEVATOR CONTRACTOR EMPLOYS LICENSED ELEVATOR
39 MECHANICS WHO PERFORM THE WORK DESCRIBED IN SECTION NINE HUNDRED FIFTY-
40 ONE OF THIS ARTICLE AND HAVE PROOF OF COMPLIANCE WITH THE INSURANCE
41 REQUIREMENTS SET FORTH IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
42 NINE HUNDRED FIFTY-FOUR OF THIS ARTICLE.

43 3. ANY APPLICANTS FOR AN ELEVATOR INSPECTOR'S LICENSE MUST DEMONSTRATE
44 TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH APPLICANT MEETS OR
45 EXCEEDS APPLICABLE NATIONAL STANDARDS. PRIVATE ELEVATOR INSPECTORS SHALL
46 MAINTAIN THE SAME INSURANCE REQUIREMENTS AS AN ELEVATOR CONTRACTOR.

47 4. (A) THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF
48 THIS SUBDIVISION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIF-
49 ICATE OF COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCA-
50 TION OF LICENSEES ON NEW AND EXISTING NATIONAL, STATE, AND LOCAL CONVEY-
51 ANCES CODES AND STANDARDS. SUCH COURSE SHALL CONSIST OF NOT LESS THAN
52 EIGHT HOURS OF INSTRUCTION THAT SHALL BE ATTENDED ANNUALLY AND COMPLETED
53 PRECEDING ANY SUCH LICENSE RENEWAL. THE COMMISSIONER SHALL ESTABLISH
54 REQUIREMENTS FOR CONTINUING EDUCATION AND TRAINING PROGRAMS, AND SHALL
55 APPROVE SUCH PROGRAMS, AS WELL AS MAINTAIN A LIST OF APPROVED PROGRAMS
56 WHICH SHALL BE MADE AVAILABLE TO LICENSE APPLICANTS, PERMIT APPLICANTS,

1 RENEWAL APPLICANTS AND OTHER INTERESTED PARTIES UPON REQUEST. THE
2 COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS SETTING FORTH THE
3 CRITERIA FOR APPROVAL OF SUCH PROGRAMS, THE PROCEDURES TO BE FOLLOWED IN
4 APPLYING FOR SUCH APPROVAL, AND OTHER RULES AND REGULATIONS AS THE
5 COMMISSIONER DEEMS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSES OF
6 THIS SECTION.

7 (B) THE COMMISSIONER SHALL ASSESS A FEE FOR EACH TRAINING PROGRAM
8 COMPLETION CERTIFICATE AND FOR EACH REFRESHER TRAINING PROGRAM
9 COMPLETION CERTIFICATE, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE
10 COST OF SUCH CERTIFICATES BE ASSESSED BY THE SPONSOR OF SUCH TRAINING
11 PROGRAM AGAINST THE PARTICIPANTS.

12 5. THE RENEWAL OF ALL LICENSES GRANTED UNDER THE PROVISIONS OF THIS
13 SECTION SHALL BE CONDITIONED UPON THE SUBMISSION OF A CERTIFICATE OF
14 COMPLETION OF A COURSE DESIGNED TO ENSURE THE CONTINUING EDUCATION OF
15 LICENSEES ON NEW AND EXISTING REGULATIONS OF THE DEPARTMENT. SUCH COURSE
16 SHALL CONSIST OF NOT LESS THAN EIGHT HOURS OF INSTRUCTION THAT SHALL BE
17 ATTENDED AND COMPLETED ANNUALLY PRIOR TO ANY SUCH LICENSE RENEWAL.

18 THE COURSES SHALL BE TAUGHT BY INSTRUCTORS THROUGH CONTINUING EDUCA-
19 TION PROVIDERS THAT MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, ASSOCI-
20 ATION SEMINARS, AND LABOR TRAINING PROGRAMS. THE COMMISSIONER SHALL
21 APPROVE THE CONTINUING EDUCATION PROVIDERS. ALL INSTRUCTORS SHALL BE
22 EXEMPT FROM THE REQUIREMENTS OF THE PRECEDING PARAGRAPH WITH REGARD TO
23 THEIR APPLICATION FOR LICENSE RENEWAL PROVIDED THAT SUCH APPLICANT WAS
24 QUALIFIED AS AN INSTRUCTOR AT ANY TIME DURING THE ONE YEAR IMMEDIATELY
25 PRECEDING THE SCHEDULED DATE FOR SUCH RENEWAL.

26 APPROVED TRAINING PROVIDERS SHALL KEEP UNIFORM RECORDS, FOR A PERIOD
27 OF SIX YEARS, OF ATTENDANCE OF LICENSEES FOLLOWING A FORMAT APPROVED BY
28 THE COMMISSIONER AND SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY
29 THE COMMISSIONER AT HIS OR HER REQUEST. APPROVED TRAINING PROVIDERS
30 SHALL BE RESPONSIBLE FOR THE SECURITY OF ALL ATTENDANCE RECORDS AND
31 CERTIFICATES OF COMPLETION; PROVIDED, HOWEVER, THAT FALSIFYING OR KNOW-
32 INGLY ALLOWING ANOTHER TO FALSIFY SUCH ATTENDANCE RECORDS OR CERTIF-
33 ICATES OF COMPLETION SHALL CONSTITUTE GROUNDS FOR SUSPENSION OR REVOCATION OF THE APPROVAL REQUIRED UNDER THIS SECTION.

35 S 956. POWERS OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL HAVE THE
36 AUTHORITY TO INSPECT, OR CAUSE TO BE INSPECTED, ONGOING OR COMPLETED
37 CONVEYANCES PROJECTS AND TO CONDUCT AN INVESTIGATION THEREOF UPON THE
38 COMMISSIONER'S OWN INITIATION OR UPON RECEIPT OF A COMPLAINT BY ANY
39 PERSON OR ENTITY. HOWEVER, NOTHING IN THIS SUBDIVISION SHALL PERMIT THE
40 COMMISSIONER TO ENTER A PRIVATE RESIDENCE.

41 2. IF, UPON RECEIPT OF A COMPLAINT ALLEGING A VIOLATION OF THIS ARTI-
42 CLE, THE COMMISSIONER REASONABLE BELIEVES THAT SUCH VIOLATION EXISTS, HE
43 OR SHE SHALL INVESTIGATE AS SOON AS PRACTICABLE TO DETERMINE IF SUCH
44 VIOLATION EXISTS. IF THE COMMISSIONER DETERMINES THAT NO VIOLATION OR
45 DANGER EXISTS, THE COMMISSIONER SHALL INFORM THE COMPLAINING PERSON OR
46 ENTITY.

47 3. IF, UPON INVESTIGATION, THE COMMISSIONER DETERMINES THAT THE
48 ALLEGED VIOLATION EXISTS, THE COMMISSIONER MAY DELIVER TO SUCH OWNER OR
49 ELEVATOR CONTRACTOR OR HIS OR HER AGENT OR REPRESENTATIVE A WRITTEN
50 ORDER TO CURE SUCH VIOLATION AND MAY ORDER THAT THEIR PERMIT TO WORK ON
51 SUCH INSTALLATION, REPAIR OR MAINTENANCE PROJECT SHALL BE SUSPENDED
52 UNTIL SUCH VIOLATION IS CURED. SUCH ORDER SHALL SPECIFICALLY ENUMERATE
53 THE VIOLATIONS WHICH CONSTITUTE THE BASIS OF THE ORDER TO CURE OR ORDER
54 OF SUSPENSION AND SHALL SPECIFY THE CORRECTIVE ACTION TO BE TAKEN. THE
55 COMMISSIONER MAY ALLOW THE PERMIT TO TOLL DURING THE TIME OF SUCH ORDER.

1 4. UPON RECEIPT OF A WRITTEN NOTICE FROM THE ELEVATOR CONTRACTOR, OR
2 HIS OR HER AGENT OR REPRESENTATIVE, THAT SUCH VIOLATION HAS BEEN
3 CORRECTED, THE COMMISSIONER SHALL, WITHIN TEN DAYS, ISSUE A DETERMI-
4 NATION AS TO WHETHER SUCH ORDER TO CURE HAS BEEN SATISFIED AND SUCH
5 ORDER OF SUSPENSION, IF ANY, SHALL BE LIFTED. IF THE COMMISSIONER DETER-
6 MINES THAT THE ORDER TO CURE HAS NOT BEEN SATISFIED HE OR SHE MAY
7 CONTINUE SUCH ORDER FOR A REASONABLE PERIOD OF TIME UPON THE CONSENT OF
8 THE CONTRACTOR, OR HIS OR HER AGENT OR REPRESENTATIVE. IF THE COMMIS-
9 SIONER DOES NOT CONTINUE THE ORDER, OR IF THE CONTRACTOR, OR HIS OR HER
10 AGENT OR REPRESENTATIVE DOES NOT CONSENT TO SUCH CONTINUATION, THE
11 CONTRACTOR SHALL HAVE THE RIGHT TO A HEARING TO DETERMINE IF SUCH ORDER
12 SHALL BE LIFTED. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED
13 BY A NOTICE, SUSPENSION, OR DETERMINATION ISSUED UNDER THIS SECTION MAY
14 COMMENCE A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL
15 PRACTICE LAW AND RULES.

16 5. THE COMMISSIONER MAY, AFTER A NOTICE AND HEARING, SUSPEND OR REVOKE
17 A LICENSE ISSUED UNDER THIS ARTICLE BASED ON ANY OF THE FOLLOWING
18 VIOLATIONS:

19 (A) ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN THE APPLICATION;

20 (B) FRAUD, OR MISREPRESENTATION, IN SECURING A LICENSE;

21 (C) FAILURE TO NOTIFY THE COMMISSIONER AND THE OWNER OR LESSEE OF A
22 CONVEYANCE OF ANY CONDITION NOT IN COMPLIANCE WITH THIS ARTICLE;

23 (D) A VIOLATION OF SECTION NINE HUNDRED FIFTY-THREE OF THIS ARTICLE;
24 OR

25 (E) A FINDING BY THE COMMISSIONER THAT A CONTRACTOR HAS VIOLATED THIS
26 ARTICLE OR ANY RULE OR REGULATION PROMULGATED THEREUNDER TWICE WITHIN A
27 PERIOD OF THREE YEARS, OR THAT A CONTRACTOR HAS VIOLATED A PROVISION OF
28 THIS ARTICLE AND SUCH VIOLATION RESULTED IN A SERIOUS THREAT TO THE
29 HEALTH OR SAFETY OF AN INDIVIDUAL OR INDIVIDUALS. THE COMMISSIONER MAY,
30 IN ADDITION TO ORDERING THAT SUCH CONTRACTOR'S LICENSE BE REVOKED, BAR
31 SUCH INDIVIDUAL FROM BEING ELIGIBLE TO REAPPLY FOR SUCH LICENSE FOR A
32 PERIOD NOT TO EXCEED TWO YEARS.

33 6. THE COMMISSIONER MAY, AFTER NOTICE AND HEARING, REVOKE A PERMIT
34 ISSUED UNDER THIS ARTICLE BASED ON ANY OF THE FOLLOWING VIOLATIONS:

35 (A) ANY FALSE STATEMENTS OR MISREPRESENTATION AS TO A MATERIAL FACT IN
36 THE APPLICATION, PLANS, OR SPECIFICATIONS ON WHICH THE PERMIT WAS BASED;

37 (B) ANY APPLICATION WHICH BY OMISSION OR MISTAKE FAILS TO COMPLY WITH
38 THE REQUIREMENTS OF THIS ARTICLE;

39 (C) ANY FAILURE TO PERFORM WORK IN ACCORDANCE WITH THE PROVISIONS OF
40 THE APPLICATION, PLANS OR SPECIFICATIONS OR WITH THE REQUIREMENTS OF
41 THIS ARTICLE OR CONDITIONS OF THE PERMIT;

42 (D) A FAILURE BY THE OWNER OR ELEVATOR CONTRACTOR TO WHOM THE PERMIT
43 WAS ISSUED TO COMPLY WITH AN ORDER ISSUED PURSUANT TO SUBDIVISION FOUR
44 OF THIS SECTION; OR

45 (E) A FINDING BY THE COMMISSIONER THAT AN INDIVIDUAL OR CONTRACTOR WHO
46 HAS BEEN ISSUED A PERMIT HAS VIOLATED ANY PROVISION UNDER SECTION NINE
47 HUNDRED FIFTY-THREE OF THIS ARTICLE.

48 7. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, IF THE
49 COMMISSIONER FINDS, AFTER NOTICE AND HEARING, THAT AN INDIVIDUAL HAS
50 VIOLATED ANY PROVISION OF THIS ARTICLE, HE OR SHE MAY IMPOSE A CIVIL
51 PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH SUCH VIOLATION. UPON
52 A SECOND OR SUBSEQUENT VIOLATION WITHIN THREE YEARS OF THE DETERMINATION
53 OF A PRIOR VIOLATION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT TO
54 EXCEED TWO THOUSAND DOLLARS.

55 (B) THE PENALTY PROVIDED FOR IN PARAGRAPH (A) OF THIS SUBDIVISION MAY
56 BE INCREASED TO AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS IF THE

VIOLATION RESULTED IN A SERIOUS THREAT TO THE HEALTH OR SAFETY OF AN INDIVIDUAL OR INDIVIDUALS.

8. ANY ENTITY OR CONTRACTOR WHO MAY BE ADVERSELY AFFECTED BY AN ORDER ISSUED UNDER THIS SECTION MAY COMMENCE A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

9. THE COMMISSIONER MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION TO ENJOIN ANY CONDUCT THAT VIOLATES THE PROVISIONS OF THIS ARTICLE.

10. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS NECESSARY TO CARRY OUT AND EFFECTUATE THE PROVISIONS OF THIS ARTICLE.

S 957. NEW YORK STATE ELEVATOR SAFETY AND STANDARDS BOARD. 1. AN ELEVATOR SAFETY AND STANDARDS BOARD IS HEREBY CREATED, TO CONSIST OF NINE MEMBERS. THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT THREE MEMBERS. THE GOVERNOR'S APPOINTEES SHALL BE COMPRISED OF A REPRESENTATIVE OF A MAJOR ELEVATOR MANUFACTURING COMPANY, A MEMBER OF THE GENERAL PUBLIC AND A BUILDING OWNER, MANAGER OR REPRESENTATIVE; THE TEMPORARY PRESIDENT OF THE SENATE'S APPOINTEES SHALL BE COMPRISED OF AN ELEVATOR SERVICING COMPANY, AN ELEVATOR ARCHITECTURAL DESIGNER OR CONSULTANT, AND AN ELEVATOR INSPECTOR; THE SPEAKER OF THE ASSEMBLY'S APPOINTEES SHALL BE COMPRISED OF AN ELEVATOR CONTRACTOR EMPLOYEE LABOR UNION, AN ELEVATOR MECHANIC, AND A FIRE MARSHAL. THE COMMISSIONERS OF HEALTH, LABOR, EDUCATION, AND ECONOMIC DEVELOPMENT OR THEIR DESIGNEES SHALL BE EX-OFFICIO MEMBERS. THE BOARD SHALL MEET ON AN AS NEEDED BASIS TO ADVISE THE COMMISSIONER ON THE IMPLEMENTATION OF THIS ARTICLE. THE BOARD SHALL ELECT A CHAIRPERSON TO SERVE FOR THE TERM OF THEIR APPOINTMENT TO THE BOARD. THE BOARD SHALL PREPARE AN ANNUAL REPORT FOR THE GOVERNOR AND THE LEGISLATURE, COPIES OF WHICH SHALL BE SENT TO THE COMMISSIONERS OF HEALTH, EDUCATION, ECONOMIC DEVELOPMENT, AND LABOR.

2. THE FIRST MEMBER APPOINTED BY THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY SHALL HAVE A TERM OF ONE YEAR; THE SECOND MEMBER APPOINTED BY EACH SHALL HAVE A TERM OF TWO YEARS AND THE REMAINING MEMBERS SHALL HAVE A TERM OF THREE YEARS. EACH OF SUCH APPOINTED MEMBERS SHALL HOLD OFFICE FOR THE TERM FOR WHICH SUCH MEMBER WAS APPOINTED AND UNTIL HIS OR HER SUCCESSOR SHALL HAVE BEEN APPOINTED OR UNTIL HE OR SHE SHALL RESIGN. THE TERM OF OFFICE OF ALL SUCCESSOR MEMBERS SHALL BE THREE YEARS. THE MEMBERS SHALL SERVE WITHOUT SALARY OR COMPENSATION, BUT SHALL BE REIMBURSED FOR NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

3. THE BOARD MAY CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZATIONS CONCERNED WITH STANDARD SAFETY CODES, RULES AND REGULATIONS GOVERNING THE OPERATION, MAINTENANCE, SERVICING, CONSTRUCTION, ALTERATION, INSTALLATION, AND INSPECTION OF CONVEYANCES AND THE ADEQUATE, REASONABLE, AND NECESSARY QUALIFICATIONS OF ELEVATOR MECHANICS, CONTRACTORS, AND INSPECTORS.

4. THE DUTIES OF THE BOARD ARE AS FOLLOWS:

(A) ASSIST THE COMMISSIONER AND THE DEPARTMENT IN ESTABLISHING THE STATE REGULATIONS FOR EQUIPMENT COVERED BY THIS ARTICLE;

(B) DEVELOP RECOMMENDATIONS FOR AN ENFORCEMENT PROGRAM WHICH WILL ENSURE COMPLIANCE WITH THE REGULATIONS AND REQUIREMENTS PROMULGATED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE;

(C) ASSIST THE COMMISSIONER IN GRANTING EXCEPTIONS AND VARIANCES FROM THE LITERAL REQUIREMENTS OF THE APPLICABLE CODE AND STANDARDS, REGULATIONS, AND LOCAL LEGISLATION, IN CASES WHERE SUCH VARIANCES WOULD NOT JEOPARDIZE THE PUBLIC SAFETY AND WELFARE;

1 (D) ASSIST THE COMMISSIONER IN SETTING FEE SCHEDULES FOR LICENSES,
2 PERMITS, AND INSPECTIONS. THE FEES SHALL REFLECT THE ACTUAL COSTS AND
3 EXPENSES TO CONDUCT THE DUTIES AS DESCRIBED IN THIS ARTICLE; AND

4 (E) ASSIST THE COMMISSIONER IN ANY AND ALL THINGS NECESSARY OR CONVEN-
5 IENT TO THE COMMISSIONER'S DUTY TO CARRY OUT THE PURPOSES OF THIS ARTI-
6 CLE.

7 S 958. EXEMPT PERSONS. THIS ARTICLE SHALL NOT BE CONSTRUED TO APPLY TO
8 THE PRACTICE, CONDUCT, ACTIVITIES, OR SERVICES BY A PERSON LICENSED TO
9 PRACTICE ARCHITECTURE WITHIN THIS STATE PURSUANT TO ARTICLE ONE HUNDRED
10 FORTY-SEVEN OF THE EDUCATION LAW OR ENGINEERING WITHIN THIS STATE PURSU-
11 ANT TO ARTICLE ONE HUNDRED FORTY-FIVE OF THE EDUCATION LAW.

12 S 2. The state finance law is amended by adding a new section 97-pppp
13 to read as follows:

14 S 97-PPPP. ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT.

15 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER
16 THE ELEVATOR AND RELATED CONVEYANCES SAFETY PROGRAM ACCOUNT.

17 2. SUCH FUND SHALL CONSIST OF MONEYS COLLECTED PURSUANT TO THE
18 PROVISIONS OF ARTICLE THIRTY-THREE OF THE LABOR LAW.

19 3. MONEYS OF THE FUND SHALL BE AVAILABLE TO THE COMMISSIONER OF LABOR
20 FOR PURPOSES OF OFFSETTING THE COSTS INCURRED BY THE COMMISSIONER OF
21 LABOR FOR THE ADMINISTRATION OF ARTICLE THIRTY-THREE OF THE LABOR LAW,
22 INCLUDING THE ADMINISTRATION OF ELEVATOR AND RELATED CONVEYANCES SAFETY
23 PROGRAMS, THE ADMINISTRATION OF LICENSES AND PERMITS, AND THE ADMINIS-
24 TRATION OF CERTIFICATES OF OPERATION AS SET FORTH IN SUCH ARTICLE THIR-
25 TY-THREE.

26 4. THE MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT
27 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER
28 OR HIS OR HER DESIGNEE.

29 5. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW, NO
30 MONEYS SHALL BE AVAILABLE FROM THE FUND UNTIL A CERTIFICATE OF ALLO-
31 CATION AND A SCHEDULE OF AMOUNTS TO BE AVAILABLE THEREFOR SHALL HAVE
32 BEEN ISSUED BY THE DIRECTOR OF THE BUDGET, AND A COPY OF SUCH CERTIF-
33 ICATE FILED WITH THE COMPTROLLER. SUCH CERTIFICATE MAY BE AMENDED FROM
34 TIME TO TIME BY THE DIRECTOR OF THE BUDGET AND A COPY OF EACH SUCH
35 AMENDMENT SHALL BE FILED WITH THE COMPTROLLER.

36 S 3. This act shall take effect on the one hundred eightieth day after
37 it shall have become a law, provided, however, that effective immediate-
38 ly, the addition, amendment and/or repeal of any rules or regulations
39 necessary for the implementation of this act on its effective date, and
40 the appointment of the New York state elevator safety and standards
41 board, are authorized and directed to be established, made and completed
42 on or before such effective date.



Time to Rebuild:

A Blueprint for Reforming
New York City's Department of Buildings

March 2012



Office of the Manhattan
Borough President

Scott M. Stringer
Manhattan Borough President

EXECUTIVE SUMMARY

For years, the New York City Department of Buildings (DOB) has struggled to fulfill its dual responsibilities to both promote and police the development of New York City's ever-changing building stock. This fundamental conflict is not new. Proposals for reconfiguring the DOB date back to the administration of former Mayor Rudy Giuliani, yet reforms that would have made the agency more effective remain unrealized.

New data contained in this report once again calls into question the effectiveness of the DOB and provides additional evidence that the agency must be reformed. Using figures published by the DOB through its monthly BUILD Indicator reports, the Manhattan Borough President's Office has uncovered disappointing new trends that lead to new questions about the DOB's ability to regulate elevator safety and to promote new building development – two of its core missions.

This report concludes that the DOB has done an increasingly poor job of keeping up with elevator inspections in New York City over the last three years – with occasionally tragic results. Recent accidents involving the death of a young boy at a public housing development in Brooklyn, as well as a December 2011 elevator fatality at an office building on Madison Avenue, only serve to underscore the need for reform.

Among the new data presented in this report:

Elevator inspections have declined substantially citywide

- **The average number of elevator inspections conducted by the DOB has declined by roughly 28 percent in recent years.**
- Specifically, from January 2006 through September 2008, the average number of monthly elevator inspections by the DOB was 7,930. Since then, the average number of monthly inspections by the DOB has plummeted to 5,723, a decline of 28 percent.
- As recently as April 2008, monthly DOB elevator inspections peaked at 9,227 – nearly double the most recent monthly average.

Meanwhile, the DOB is taking longer than ever to review new building applications in Manhattan

- **The time it takes for the DOB to review new building applications has nearly doubled in recent years.**
- Specifically, from January 2006 through September 2008, the average first review for new building applications in Manhattan occurred within 14.5 days. Since then, the average first review for new building applications has ballooned to 25.6 days, an increase of 77 percent.
- In some months, review times have exceeded 60 days.

These delays are occurring despite the fact that new building applications have declined by more than two-thirds in recent years

- For the period from January 2006 through September 2008, the DOB received an average of 19.3 applications for new buildings in Manhattan.
- For the period from October 2008 through June 2011, the DOB received an average of 6.7 applications for new buildings in Manhattan – a decline of 65%.

In short, the report concludes that the DOB – currently charged with both promoting and policing development – is fulfilling neither mission adequately.

Based on this new evidence, the report recommends that the time has come to break the Department of Buildings into two agencies – one focused solely on inspections and safety (the Office of Inspection), and one dedicated to promoting and advancing development (the Department of Buildings). Such a split would increase efficiency by refocusing resources, while also relieving the DOB of the dual responsibility of both promoting and policing development.

The new Office of Inspection (OOI) – which Borough President Stringer first called for in 2009 – would be responsible for all building inspections and the remediation of building violations. Envisioned as a quasi-governmental authority funded by building violation fines, the OOI would: draw inspectors with greater qualifications, talent, and consistent training; respond to fluctuations in development; and have the authority to reclassify building violations so that the most dangerous violations are given an urgent designation and sufficient government attention.

Finally, this report briefly addresses a controversial decision by the DOB to block access to publicly available buildings data. The BUILD Indicator reports are a small portion of the data that has been removed from City websites. In an effort to promote transparency in Government, the Manhattan Borough President's Office is posting over two hundred pages of these documents to an independent website and calls on the City to immediately reinstate public access to all buildings data.

INTRODUCTION

In January 2010, the Manhattan Borough President's Office released "*Falling Apart at the Seams*," a report that projected that 15,000 of the open violations in Manhattan's building stock are so serious that, by the City's own classification, they pose a "threat that *severely* affects life, health, safety, property, public interest or persons so as to warrant immediate corrective action."

Falling Apart at the Seams concluded that building enforcement in New York City must be reformed to eliminate what is now an inherent conflict: the dual mission of the New York City Department of Buildings (DOB) to both promote and police development. The report called on the City to restrict DOB's mission and responsibilities to advancing building projects and promoting development in general. At the same time, it recommended that the City create a new Office of Inspection (OOI) to handle all building safety issues, and more efficiently and effectively maintain safe development in New York City.

As DOB Commissioner Robert LiMandri noted at a September 21, 2009 meeting of the City Council Committee on Housing and Buildings, "what this department [DOB] consistently needs is stronger enforcement policies."¹ The creation of a new OOI would be in line with the spirit of Commissioner LiMandri's testimony.

Modeled after Ontario's Technical Standards & Safety Authority and Quebec's Commission de la construction du Quebec (CCQ), OOI is envisioned as a quasi-public agency that would house all City building inspectors and be responsible for the issuance and remediation of all building violations. OOI's budget would be funded with receipts from building violations, a unique model for New York City agencies. In the Borough of Manhattan alone, it is estimated that there are some \$60 million in uncollected building violations fines.²

¹ legistar.council.nyc.gov/View.ashx?M=F&ID=748684&GUID=1BE79A1E-ABEE-4B0C-AFD6-B8FA31B0F7E8

² www.mbp.o.org/uploads/policy_reports/mbp/buildingreportfinal.pdf

Borough President Stringer presented this specific recommendation to the New York City Charter Revision Commission in 2010.³

Now, less than two years later, a new analysis by the Manhattan Borough President's Office provides additional evidence that the Department of Buildings continues to inadequately fulfill its dual mandates to promote development and ensure safety. This report will present two key analyses that rely on BUILD Indicator reports – monthly performance reviews compiled by the DOB – and make recommendations meant to promote responsible development and ensure safety.

This report will also address the City's recent decision to block public access to DOB data and will provide links to some 227 pages of buildings data that was recently removed from the City DOB website.

PRESENTATION OF NEW DATA

In an effort to measure the quality and efficiency of critical services, the New York City Department of Buildings had posted monthly reports on their website known as BUILD Indicators. BUILD is an acronym that stands for Building Understanding, Integrity, Leadership, Dedication.

Despite recent pronouncements about their "commitment to transparency,"⁴ the DOB removed the BUILD Indicators and other data from its website sometime during the week of February 13-17, 2012.⁵ Prior to the removal of these documents from the DOB website, researchers from the Manhattan Borough President's Office had downloaded all available BUILD Indicators reports from January 2002 through June 2011, the most recent reports available as of February 2012.

³ <http://mbpo.org/uploads/reformingreport3.pdf>

⁴ http://www.nyc.gov/html/dob/downloads/pdf/biennial_report_printer_version.pdf?epi-content=GENERIC

⁵ <http://online.wsj.com/article/SB10001424052970203918304577243542549363220.html>

The 227 pages of BUILD Indicator reports that were reviewed by the Manhattan Borough President's Office have been republished and can be accessed here: http://www.mbp.org/free_details.asp?id=368

Slower building application review times in Manhattan

The most notable trend found in the BUILD Indicator reports is a troubling rise in the average number of days that it took the DOB to conduct its first review of new building applications. For the period from October 2008 through June 2011, the average first review for new building applications jumped to 25.6 days – nearly double the 14.5 days it took on average over the previous two-and-a-half year period. In some cases, review times stretched as long as 69 days.

It would be logical to assume that the surge in review times was driven by a corresponding increase in new building applications. However, as the BUILD Indicator reports show, the opposite was true. Over the same corresponding periods, the average number of new building applications actually dropped by more than two-thirds, from 19.3 per month to 6.7 per month.

The month of June 2009 was an outlier with 41 new building applications, a high not matched since January 2006, which can most likely be attributed to the expiration of the 421-a subsidy. When this month is removed, the average number of new building applications drops even further, to 5.6 per month.

Thus, as building applications began to dip substantially in October 2008, review times at the DOB increased substantially, a counterintuitive trend that undeniably points to the need for reform.

It is clear that the City has also noticed this disturbing trend. In this year's State of the City speech, the Mayor pledged to cut red tape at the DOB through the introduction of an online hub that would reduce wait times to ten days or less.⁶

⁶ http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57b-b4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_

One additional explanation for this phenomenon may be the fact that the DOB has shed 276 positions in the last three years, and some of those jobs may have been focused on reviewing new building applications. However, with \$146.9 million in revenue and \$94.6 million in expenses at the DOB, some have questioned whether the DOB truly had to make cuts and whether DOB proceeds are being used to enhance the City's general fund at the expense of jobs and other economic activity that would result from a more focused promotion of development in New York City.

Finally, it should be noted that the City stopped posting BUILD Indicator reports on the DOB website after June 2011, making it unclear whether the trend outlined above may have gotten better or worse over the last nine months.

The bar graph in Appendix A illustrates the number of new building applications and the average number of days to review first applications from January 2006 through June 2011.

Sharp decreases in elevator inspections

In the Borough of Manhattan, apartment buildings, commercial towers and even some subway stations require safe and reliable elevator service. The DOB is the steward of the City's elevator fleet, performing thousands of safety inspections each month. Although the City's 60,000 elevators make countless numbers of vertical trips safely and without incident each day, elevator accidents and fatalities still occur, with 43 citywide elevator accidents in 2011 alone.⁷

The data included in recent BUILD Indicator reports affirms that the DOB has done an increasingly poor job of keeping up with elevator inspections in New York City over the last three years.

For the period from October 2008 through June 2011, the DOB conducted an average of 5,723 eleva-

release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2012a%2Fpr014-12.html&cc=unused1978&rc=1194&ndi=1

⁷ <http://cityroom.blogs.nytimes.com/2012/02/27/city-blames-fatal-elevator-accident-on-poor-maintenance-work/?src=twrhp>

tor inspections per month. That's a decline of more than 27 percent from the average 7,930 monthly inspections the DOB performed over the prior 33-month period. In the peak month of April 2008, the DOB inspected 9,227 elevators, or nearly double the current monthly average. At its lowest point in June 2010, the DOB inspected only 3,016 elevators citywide.

The line graph in Appendix B plots the number of citywide elevator inspections conducted by DOB inspectors from January 2006 – June 2011.

RECOMMENDATIONS

1. The time has come for the City to create an Office of Inspection. The OOI would be a quasi-governmental authority that would take responsibility for all building inspection and remediation duties from the DOB. It would house the City's building inspectors and be responsible for the issuance and remediation of all buildings violations. Other responsibilities of the DOB, such as planning examinations and issuing construction permits and certificates of occupancy, would remain with the DOB.

The OOI would provide a much needed streamlining of government resources to help remove the many layers of government bureaucracy at the DOB. In its current form, the DOB is simply unable to adequately perform the myriad, often conflicting responsibilities it has under its authority.

Funds that are currently apportioned to the DOB for buildings inspection operations should be shifted to the OOI. Most importantly, the revenue collected from OOI violations and enforcement should go directly into OOI's budget. Under the current system, revenue raised from DOB violations goes into the City's general fund rather than back into the DOB budget. This budgeting change will allow OOI to pay building inspectors at markedly higher rates, thereby attracting inspectors with greater

qualifications, talent, and consistent training. In addition, the office would demand higher levels of accountability among the City's buildings inspectors.

2. The DOB must reform its elevator inspection protocols. Setting the troubling decrease in inspection figures aside, it is clear that there are serious deficiencies in the way that the DOB manages private elevator inspections. Finding the right balance between public and private elevator inspectors should be a top priority for the City.

Private elevator inspections were first permitted by the City in 1981 and were substantially increased in 1996 after 75 percent of the DOB's elevator inspection staff was suspended by Mayor Giuliani on suspicion of bribery.⁸ However, recent incidents involving private elevator companies indicate that more accountability is required. Indeed, in the aftermath of the December 2011 elevator fatality on Madison Avenue, the DOB conducted "the largest safety sweep of elevators in its history," suggesting that the DOB itself may have had its own questions about the trustworthiness of private elevator inspections.⁹

The DOB should develop and release a plan that increases accountability for private elevator inspectors and provides the public the assurance it deserves that New York City elevators are safe and reliable.

3. Another area where government can make a positive impact is on the issue of individuals licensed to work on elevators. As a recent New York Times article noted, "anyone with a set of tools can work on an elevator."¹⁰ To remedy this shortcoming, Manhattan Assembly Member Keith Wright and New York State Senator

⁸ <http://www.nytimes.com/2009/10/04/realestate/04posting.html>

⁹ <http://online.wsj.com/article/SB10001424052970204520204577249890317876100.html>

¹⁰ <http://www.nytimes.com/2011/12/16/nyregion/elevator-that-killed-yr-executive-was-undergoing-maintenance-city-says.html>

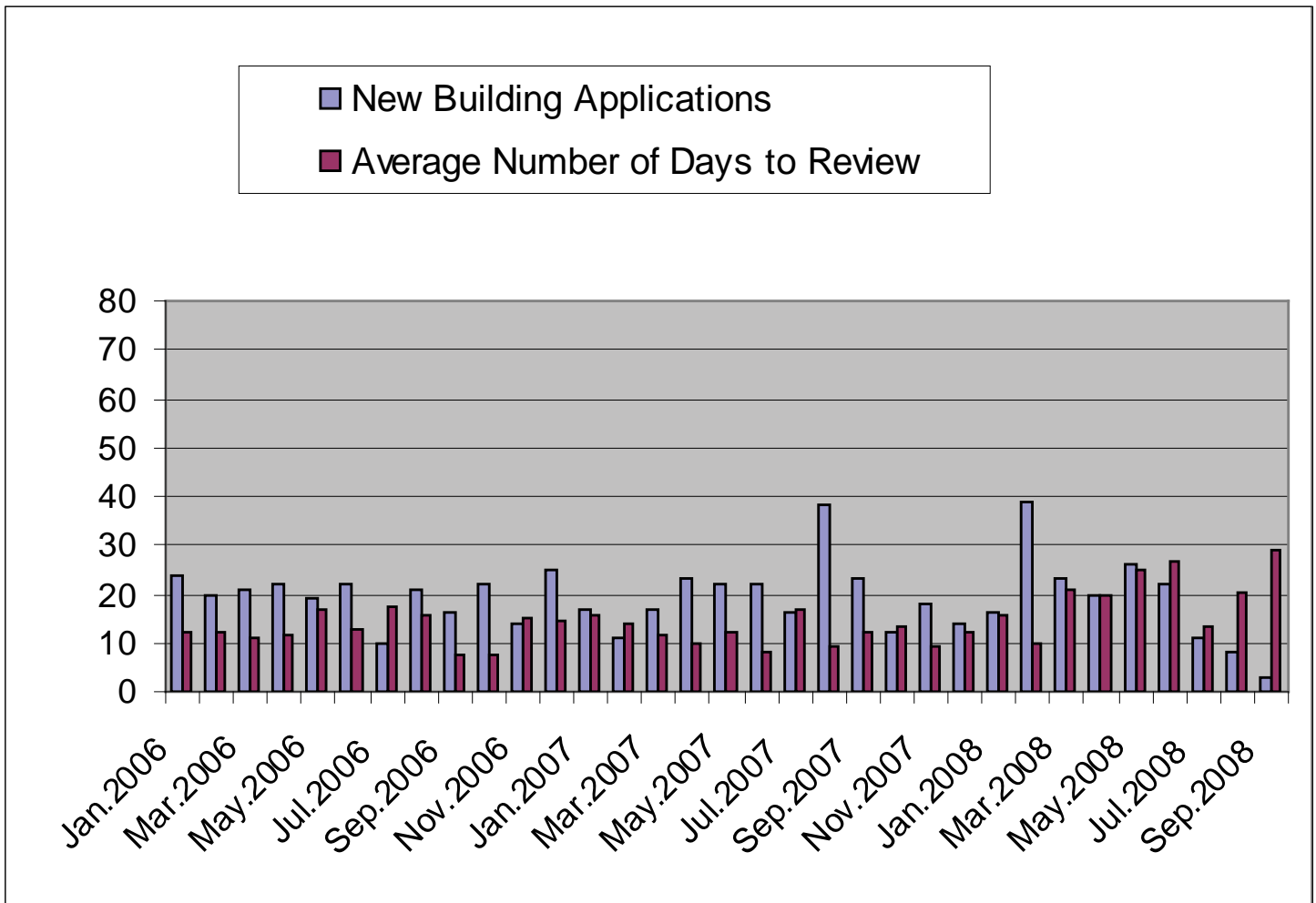
Liz Krueger have introduced A. 8359/S.6291 in the New York State Legislature. This common sense legislation would require licensing for anyone who works in the field of elevator repair, inspection or construction. The Assembly and Senate should pass this bill.

4. It is unacceptable that the DOB has blocked computerized access to public data housed on its website. Developing a new system that will allow the DOB to manage billions of hits on its website each day is certainly a daunting task, but it is not impossible. The Metropolitan Transportation Authority (MTA) has faced and addressed similar challenges, and as a result the industry for computer and smart phone apps using MTA data has flourished.

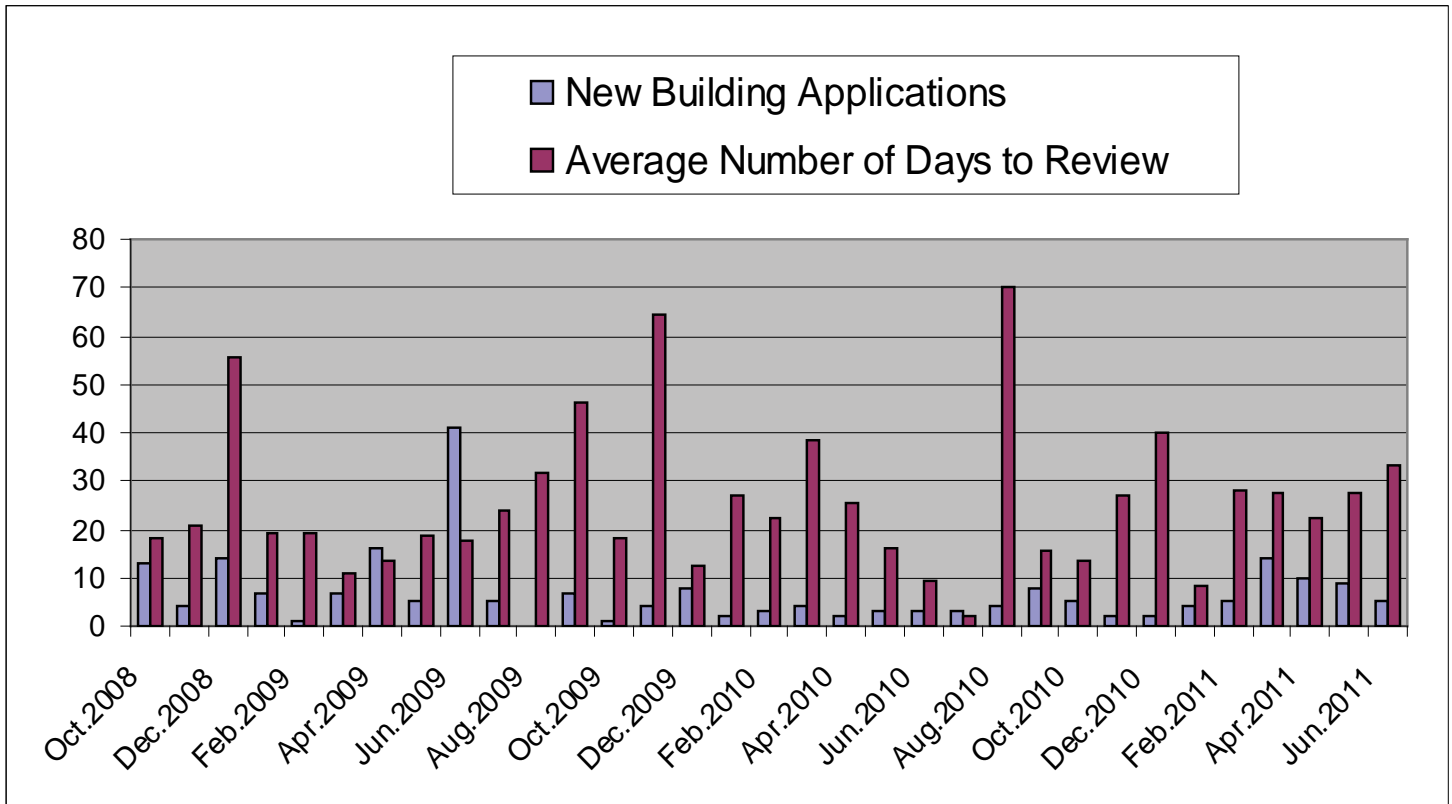
New trends that have facilitated new apps, which access and synthesize broad sets of government data, have improved the customer experience for the straphangers that use these tools. Additionally, they have arguably made the MTA a more open and efficient agency.

The DOB should work closely with the MTA and other experienced entities to develop a protocol for managing open access to its data. Like the MTA, easy access to this data will improve the customer experience and ultimately help the DOB achieve its core mission to promote development in New York City.

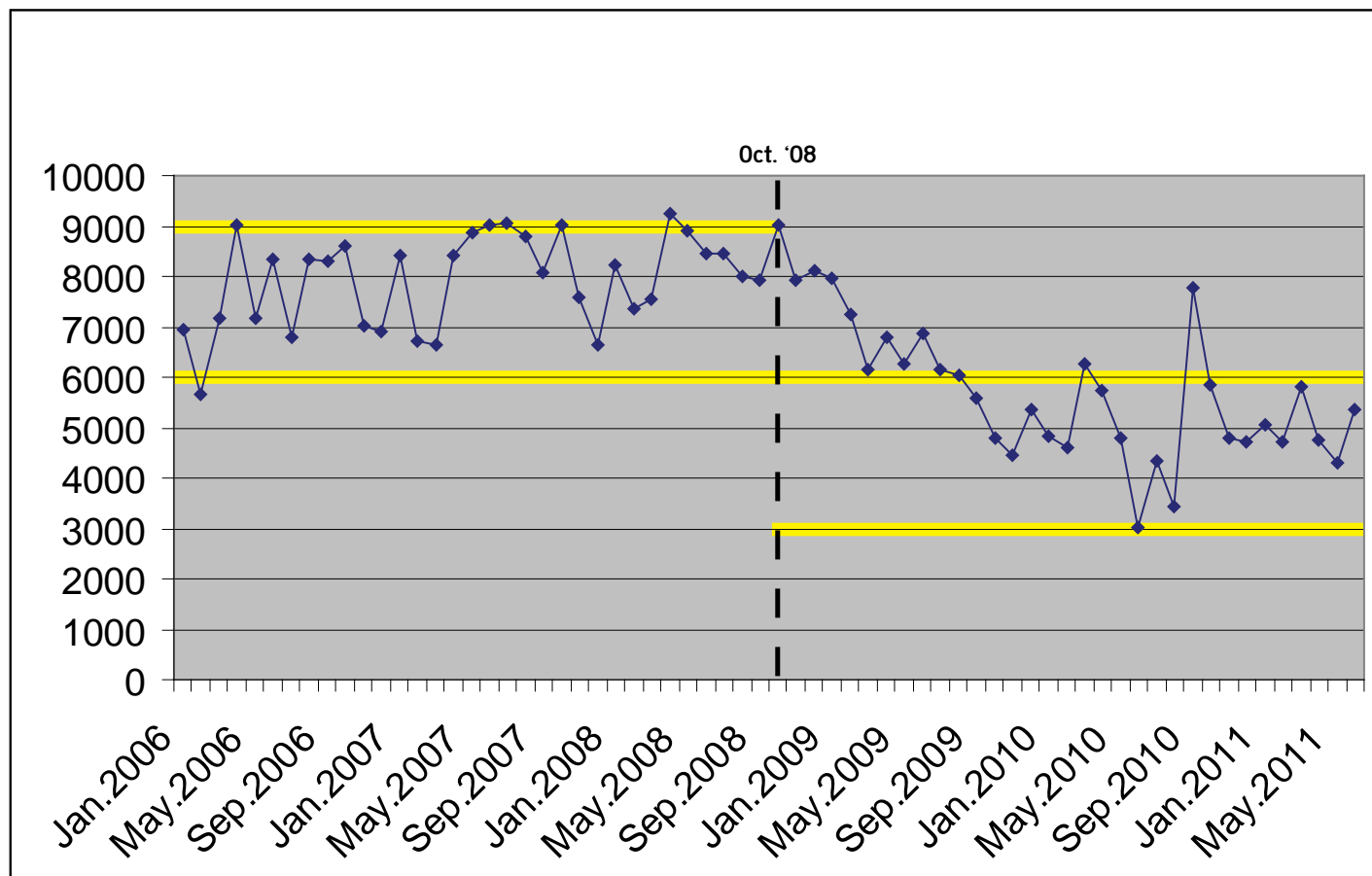
**New York City Department of Buildings
New Building Applications and Application Review Times
January 2006 – September 2008**



New York City Department of Buildings New Building Applications and Application Review Times October 2008 – June 2011



New York City Department of Buildings Number of Elevator Inspections





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The New York City Council

City Hall
New York, NY 10007

Legislation Text

File #: Int 0839-2012, Version: *

Preconsidered Int. No. 839

By Council Members Vacca, Vallone, Chin, Fidler, Gentile, Koo and Halloran

A Local Law to amend the administrative code of the city of New York, in relation to elevator agency director and elevator technician licenses.

Be it enacted by the Council as follows:

Section 1. Section 28-401.3 of the administrative code of the city of New York is amended by adding definitions for “elevator agency director” and “elevator technician” in alphabetical order following the definition of “direct employ,” to read as follows:

ELEVATOR AGENCY DIRECTOR. An individual that exercises direct and continuing supervision over the operations of a private elevator inspection agency and who is licensed pursuant to this chapter.

ELEVATOR TECHNICIAN. An individual that engages in altering, inspecting, maintaining, repairing, servicing, or testing elevators and who is licensed pursuant to this chapter.

§2. Section 28-401.3 of the administrative code of the city of New York is amended by adding a definition for “personal supervision” in alphabetical order following the definition of “licensed master plumber, master plumber,” to read as follows:

PERSONAL SUPERVISION. Direct and continuing supervision, as defined in this section, where responsible control is exercised by the licensed individual personally and directly and not through intermediate supervisors or other intervening levels of supervision.

§3. The definition of “private elevator inspection agency” contained in section 28-401.3 of the administrative code of the city of New York is amended to read as follows:

PRIVATE ELEVATOR INSPECTION AGENCY. An approved agency authorized by the

commissioner to operate as an independent contractor for the purpose of altering, inspecting, maintaining, repairing, servicing, and testing elevators, escalators and other conveying equipment regulated by this code and shall include but shall not be limited to an insurance company, elevator maintenance company, elevator manufacturer or elevator inspection company.

§4. Chapter four of title 28 of the administrative code of the city of New York is amended to add a new article 421 to read as follows:

ARTICLE 421
ELEVATOR AGENCY DIRECTOR AND ELEVATOR TECHNICIAN LICENSE

§28-421.1 Elevator agency license required.

§28-421.2 Additional qualifications for elevator agency director.

§28-421.3 Elevator technician license required.

§28-421.4 Additional qualifications for elevator technician.

§28-421.5 Insurance exemption.

§28-421.6 Fee exemption.

§28-421.1 Elevator agency director license required. All operations of a private elevator inspection agency, including but not limited to the alteration, maintenance, inspection, repair, service, and testing of elevators, shall be carried out under the direct and continuing supervision of an elevator agency director. Each elevator agency director shall supervise the operations of only one private elevator inspection agency.

§28-421.2 Additional qualifications for elevator agency director. In addition to satisfying the general requirements of article 401 of this chapter, all applicants for an elevator agency director license shall submit satisfactory proof establishing that the applicant:

1. Meets one of the following criteria:

1.1. Has a valid certificate of approval for a private elevator inspection agency director issued by the department prior to the effective date of this article;

1.2. Has at least ten (10) years of satisfactory experience within the last fifteen (15) years immediately preceding the date of application with at least one thousand seven hundred fifty (1,750) hours of experience per year in the supervision of the alteration, assembly, design, inspection, installation, maintenance, repair,

servicing, or testing of elevators; or

1.3. Is a New York state licensed professional engineer or registered architect, and has at least five (5) years of satisfactory experience within the last seven (7) years immediately preceding the date of application with at least one thousand seven hundred fifty (1,750) hours of experience per year in the supervision of the alteration, assembly, design, inspection, installation, maintenance, repair, servicing, or testing of elevators;

2. Has earned a certification from and successfully passed the mechanic examination administered by the National Elevator Industry Educational Program or the National Association of Elevator Contractors or an equivalent instruction program administered by an institution accredited and approved by New York state or the United States department of labor; and

3. Complies with any additional qualifications the department requires by rule.

§28-421.3 Elevator technician license required. It shall be unlawful for any person to alter, maintain, inspect, repair, service or test elevators unless such person:

1. Is an elevator agency director;

2. Is an elevator technician and is employed by and working under the direct and continuing supervision of an elevator agency director or the department; or

3. Is working under the personal supervision of an elevator technician or elevator agency director as part of a New York state approved apprenticeship program and is employed by and/or working under the direct and continuing supervision of an elevator agency director or the department.

§28-421.4 Additional qualifications for elevator technicians. In addition to satisfying the general requirements of article 401 of this chapter, all applicants for an elevator technician license shall submit satisfactory proof establishing that the applicant:

1. Meets one of the following criteria:

1.1. Has a valid certificate of approval for a private elevator agency inspector issued by the department prior to the effective date of this article;

1.2. Has at least five (5) years of satisfactory experience within the last seven (7) years immediately preceding the date of application with at least one thousand seven hundred fifty (1,750) hours of experience per year in the alteration, assembly, design, inspection, installation, maintenance, repair, servicing, or testing of elevators;

1.3. Has successfully completed an apprenticeship under an elevator technician or elevator agency director as part of a New York state approved apprenticeship program; or

1.4. Has successfully completed an educational instruction program administered by the National Elevator Industry Educational Program or the National Association of Elevator Contractors or has successfully completed an equivalent instruction program administered by an institution accredited and approved by New York state or the United States department of labor;

2. Has earned a certification from and successfully passed the mechanic examination administered by the National Elevator Industry Educational Program or the National Association of Elevator Contractors or has earned a certification from and successfully passed an equivalent examination from an institution accredited and approved by New York state or the United States department of labor; and

3. Complies with any additional qualifications the department requires by rule.

§28-421.5 Insurance exemption. Unless otherwise required by rule, elevator technicians employed by private elevator inspection agencies are exempt from the insurance requirements of section 28-401.9.

§28-421.6 Fee exemption. The application fee shall be waived for the following applicants:

1. Any applicant for an elevator agency director license that has a valid certificate of approval for a private elevator inspection agency director issued by the department prior to the effective date of this article; and

2. Any applicant for an elevator technician license that has a valid certificate of approval for a private elevator agency inspector issued by the department prior to the effective of this article.

§5. Section 28-401.15 of the administrative code of the city of New York is amended by adding the

following at the end of such section:

Elevator agency director license. \$350. \$350 triennially. Late-Renewal fee: \$50. Reissuance fee: \$50.

Elevator technician license. \$350. \$350 triennially. Late-Renewal fee: \$50. Reissuance fee: \$50.

§6. Section 8.10.1 of Appendix K of the New York city building code is amended to read as follows:

8.10.1 General Requirements for Acceptance Inspections and Tests.

Delete and revise section 8.10.1.1.3 to read as follows:

8.10.1.1 Persons Authorized to Make Inspections and Tests.

8.10.1.1.3 The inspector shall be [a special inspector who meets the qualifications prescribed by rule of the department.] an elevator technician or elevator agency director as defined in section 28-401.3.

§7. The first clause of section 8.11.1 of Appendix K of the New York city building code is amended to read as follows:

8.11.1 General Requirements for Periodic Inspections and Tests.

Delete and revise section 8.11.1.1 to read as follows:

8.11.1.1 Persons Authorized to Make Inspections and Tests. The inspector shall be [a special inspector who meets the qualifications prescribed by rule of the department] an elevator technician or elevator agency director as defined in section 28-401.3.

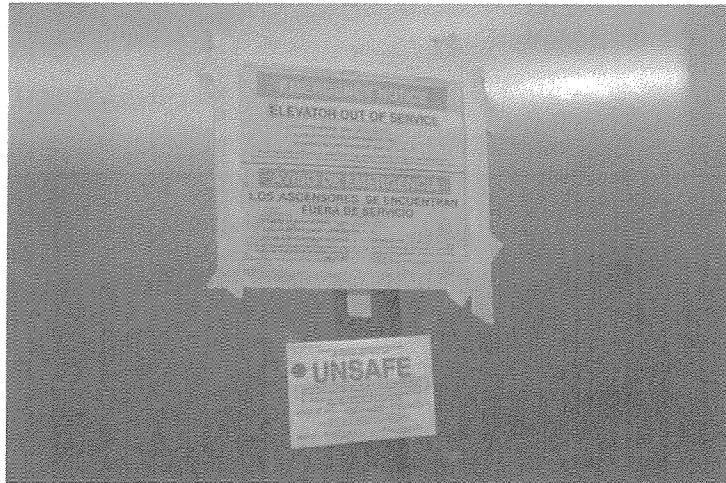
§8. This local law shall take effect one hundred twenty days after its enactment except that the commissioner of buildings shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

EAA
LS #3152
2/2/12

NYCHA tenant, 81, dies after falling and cracking skull in Bronx elevator

BY RYAN SIT, EDGAR SANDOVAL, GREG B. SMITH, GRAHAM RAYMAN

NEW YORK DAILY NEWS



Thursday, December 31, 2015, 8:20 PM

MICHAEL SCHWARTZ/FOR NEW YORK DAILY NEWS

A sign is put on the Bronx elevator where Olegario Pabon, 81, had fallen and cracked his skull.

An elderly public housing tenant died on Christmas Day after falling and cracking his skull in a Bronx elevator that had been serviced by NYCHA repairmen just the day before.

Olegario Pabon, 81, left his fifth-floor apartment on Boston Road around 4 p.m. on Christmas Eve. He tripped as he stepped into the elevator, which

wasn't level with the floor, sources told the Daily News. He crawled out of the elevator, leaving a trail of blood to the first-floor apartment of fellow tenant Rena Ashby.



MICHAEL SCHWARTZ/FOR NEW YORK DAILY NEWS

Tenant Olegario Pabon (r.) died after tripping into an elevator that had been serviced by NYCHA repairmen just the day before. His wife (l.) was identified by neighbors as Emma.

"He was trying to talk. He was asking about his wife," said Ashby, 84. "He was saying, 'Who's going to look after my wife.' It was so sad. He knew he was going to pass."

Edelmira Rivera, 79, the co-captain of the building's tenant patrol, also tried to help him.

"I saw him right after it happened," Rivera said. "He told me he jumped out because he panicked."

Rivera said the elevator has been malfunctioning for years. "It could have been any one of us," she said. "They (NYCHA) always claim they fixed it and it's always the same."

Ashby called 911, and then used towels and sheets to clean the blood from the elevator floor and the hallway as best she could.

"The stain is still in the hall," her daughter Jenine Ashby, 49, said.

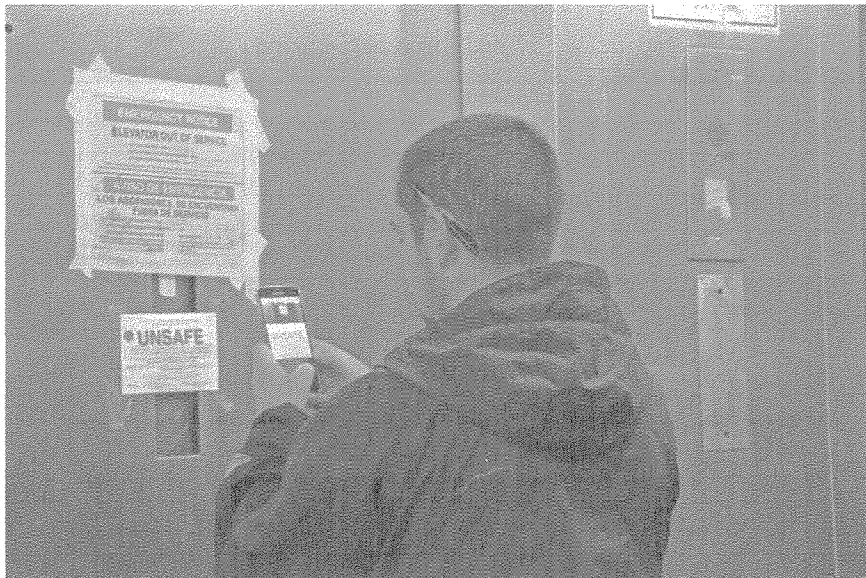
Pabon was taken to Saint Barnabas Hospital and died the following day. The city medical examiner ruled that Pabon died of bleeding in the brain due to blunt impact to his head. He was also on anticoagulant drugs for treatment of heart disease. It was an accident, officials said.

"He was trying to talk. He was asking about his wife," said Rena Ashby, 84. "He was saying, 'Who's going to look after my wife.' It was so sad. He knew he was going to pass."

Two days before the tenant died, a NYCHA elevator mechanic responding to tenant complaints was sent to examine the lift at Boston Road Plaza. He discovered the lift's door would not open properly when it reached its destination, so the mechanic called for a special services unit, sources said.

WORKER'S BLOODY ELEVATOR DEATH ON SHIP MIRRORS 'THE SHINING'

On Dec. 23, the special services unit replaced a device in the lift called a regulator, which controls its speed. The unit then signed off on the elevator and restored it to service.



MICHAEL SCHWARTZ/FOR NEW YORK DAILY NEWS

After the accident, investigators with NYCHA and the Department of Buildings examined the elevator's machinery and discovered that the newly installed regulator was faulty, the sources said.

After the accident, investigators with NYCHA and the Department of Buildings examined the elevator's machinery and discovered that the newly

installed regulator was faulty, the sources said. Investigators also found that a safety device called a rope grip that would have prevented the car from slipping into an uneven position could have been installed in the car, but was not.

NYCHA and the Department of Buildings are now looking at all 3,314 of its elevators to see which ones could be retrofitted with a rope grip device, sources said.

"This is outrageous!" City Councilman James Vacca told The News. "I need an explanation. These are the most vulnerable people."

NYCHA issued a statement on Thursday.

"We extend our deepest condolences to those affected by this tragedy, and will ensure necessary repairs are made to help prevent malfunctions in the future," the statement read.

Tenants in the 20-story building now have to make due with one functioning elevator.

The New York Times | <http://nyti.ms/1Srhd2>

N.Y. / REGION

Man Crushed by Elevator at Building That Had a History of Complaints

By NOAH REMNICK and BENJAMIN MUELLER JAN. 1, 2016

Just minutes before midnight on Thursday, Erude Sanchez and her 10-year-old nephew stepped into an elevator on the third floor of her apartment building with a bag of trash, squeezing in alongside New Year's Eve revelers and other residents.

The passengers thought little of the elevator's shudder as the doors closed, dampening the noise of parties from down the hall.

The cab grumbled downward, then stopped suddenly. Those inside, anxious to get out of an elevator that residents knew as a constant nuisance, pried open the doors. Stephen Hewett-Brown, 25, a Bronx resident and aspiring rapper who was attending a party in the Lower East Side building, hoisted Ms. Sanchez, 43, to safety, and even wished her a happy New Year, she recalled.

But before Mr. Hewett-Brown could pull back from the doorway, the elevator came crashing down, pinning him between the ceiling of the cab and the third floor, witnesses and the police said.

Riders frantically dialed 911 as people in the hallway tried to pull Mr. Hewett-Brown out. Witnesses said Mr. Hewett-Brown's girlfriend was

among those watching helplessly as Mr. Hewett-Brown wheezed, “I can’t breathe.”

“I began crying a little,” Ms. Sanchez’s nephew, Angel Peguero, said on Friday, his voice trembling. He added, “I was scared.”

Mr. Hewett-Brown was pronounced dead at a nearby hospital a short time later, the police said.

For residents of the 26-story building, the accident was the culmination of years of worries about erratic service and unmet safety concerns on the elevator.

Madeline Regalado, 27, a medical assistant, said that just a week ago she was stuck in the elevator for several minutes as it wobbled near the lobby and the doors failed to open.

“It could’ve been any of us,” said Ms. Regalado, who has lived there for 10 years. “This is nothing new. I’m scared to use the elevator now.”

The building, at 131 Broome Street, is home to many low-income immigrant families. It had three open violations on its elevators that were issued by the city Buildings Department for failing to correct defects dating to a 2012 inspection, according to city records. A hearing had even been scheduled for Thursday, just before Mr. Hewett-Brown was killed, related to a \$200 fine by the Environmental Control Board for problems with the elevators’ directional lights.

Dozens of complaints filed with the Buildings Department over the years echoed the same problems. One complaint in May said two of the three elevators had been out of service for a week, and another a few weeks later said all three had stopped working for an hour. In 2011, a tenant said the elevators were shut down at night, forcing them to use the stairs, only to be restored at 7 a.m. each day.

That same year, in July, a complaint said the middle elevator dropped several floors while people were inside. Thirteen days later, another said the elevator dropped several floors and the door's opening was delayed; the person filing the complaint described being "badly shaken up." The Buildings Department said it was investigating the accident. The elevators have a capacity of 2,000 pounds, according to city records.

The building management company listed in online records, Wavecrest Management Team, did not respond to messages seeking comment. One company that inspected the elevators in recent years, Elevator Testing Co Inc, said it would look at its records; another, North American Elevator, did not respond to a message seeking comment.

At Mr. Hewett-Brown's home in the Bronx on Friday, his mother was too distraught to speak. "I can't, I just can't," she said, waving a reporter away.

Emmanuel Coronado, 23, a line cook from New Jersey and son-in-law of Ms. Sanchez, said he tried to heave the man into the hallway on Thursday night.

"I tried to pull him out, but the weight of the elevator just crushed him," Mr. Coronado said. "There was no hope."

The police said the first 911 call came in at 11:54 p.m., followed seven minutes later by the arrival of emergency medical workers and police officers from a nearby precinct. By 12:09 a.m., the police said, officers from a specialized Emergency Service Unit and Fire Department workers were trying to extricate Mr. Hewett-Brown, and he was taken to the hospital just after 12:30 a.m.

Some residents chose the stairs on Friday, while others said they had no choice but to live with their fears and take the elevators. Mr. Coronado, for his part, called Mr. Hewett-Brown a "hero" for guiding Ms. Sanchez out of harm's way.

“I don’t want to remember it,” Mr. Coronado added. “And I don’t want to see it happen again.”

He recalled overhearing the elated midnight countdown from the elevator bank as they tried to help.

A version of this article appears in print on January 2, 2016, on page A11 of the New York edition with the headline: Man Crushed by Elevator at Building That Had Complaints.

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N.Y. / REGION

Man Visiting Brooklyn Apartment Building Dies in Elevator Accident

By BENJAMIN MUELLER OCT. 2, 2015

The locksmith, visiting friends at a luxury apartment building in Williamsburg, Brooklyn, a few hours before dawn on Friday, stepped into an elevator whose unpredictable jerks and wobbles had occasionally unnerved tenants.

The door remained open but the elevator plunged to the basement, carrying the man, Eran Modan, 37, and four friends. They were all afraid, one of the friends said later, but only Mr. Modan decided to try stepping out. The floor of the basement, now almost level with the cab, was in sight.

In an instant the small elevator shot back up toward the lobby, its stainless-steel door still ajar, and Mr. Modan only halfway out. His body was crushed between the elevator and the basement ceiling and elevator shaft, and he was pronounced dead by emergency medical workers.

“As it went up, he tried to jump out and was caught in between two floors,” said one of the friends who watched him die, tearfully. “His body was squashed.”

The friend, a D.J. from Mexico City whom Mr. Modan and the others had just seen performing at a Manhattan club, said she did not want to give

her name because “this is not a dignified way to die.”

The accident, at a seven-year-old building that drew mostly young and well-off renters, transformed an area of rising rents and development into a scene of anger and mourning on Friday.

The elevator, the only one in the building, has been tagged with four violations since 2013, all of them since resolved, and had also drawn three complaints for being unsafe or unreliable in 2012, according to records from the New York City Buildings Department.

Mona Zarrin Ramsdell, who lived with Mr. Modan in Brooklyn and was in the elevator with him at his death, was sitting on the ground outside the building around noon, her body hunched over. “Fix your elevator! Fix everything!” she said loudly through tears, addressing the building’s management. “If there’s a problem, don’t be lazy. Take initiative because its important!”

The Buildings Department commissioner, Rick D. Chandler, said at a news conference outside the building, at 156 Hope Street near Union Avenue, that investigators were conducting a load testing procedure. “We see no outstanding problems with the elevator at this time,” Mr. Chandler said.

The elevator, he said, may have been carrying too much weight. “We think that the elevator was adjusting or leveling,” he said, but cautioned that he was speculating. “It may have been overloaded and the car was reacting in a way that was not predictable.”

A city official, speaking on the condition of anonymity because the investigation was in progress, said later on Friday that inspectors had determined that “the device brake was unable to hold the capacity load,” causing the cab to fall.

Jacob Katz, the building’s property manager and an employee of Goose

Property Management, said during a late-afternoon visit to the building that “we’ve never had any problem with the elevator.”

Asked about the complaints, he said: “I wouldn’t consider that anything happened. Maybe someone felt some shaking or heard some noise and they called” the Buildings Department.

He added: “It hurts us very badly that this happened, but sometimes things happen that you cannot control. It comes from God. It comes from someplace.”

Mr. Modan, an Israeli immigrant, arrived in Queens from a city just east of Tel Aviv called Petah Tikva about 10 years ago and recently moved to Brooklyn. He walked into the six-story building in Williamsburg around 4 a.m. and planned to hang out with friends after a long night.

The accident unfolded in a matter of seconds, with the elevator jolting back upward so quickly that Mr. Modan got caught partially outside the open door.

His body had to be extracted by firefighters. He was still breathing when his friends reached the lobby through an elevator hatch, but he had serious trauma to his head and torso, the police said.

One complaint about the elevator, filed in November 2012, said the elevator “will only go up and only opens halfway.”

“It also wobbles and jerks up and down,” the complaint continued. “Unsafe to get in.”

Another, filed in December of that year, said the elevator was “not working again,” as happens “every 3 or 4 weeks.” The third, also filed in December, said the “elevator door opens halfway and shakes up and down sometimes when stopping on floor.” Buildings Department records indicate an inspection was performed and no violations were found.

Pez Epstein, 44, who has lived there for three years, said his girlfriend got trapped in the elevator earlier this year when the doors would not open. "She started pushing the bell, and after about five minutes the door just opened," Mr. Epstein said.

Another tenant, Leo, said the elevator had to be closed down and repaired only two weeks ago, so he had to use the stairs. A man who has lived there for a year and a half said he had gotten stuck "a few times." Both declined to give their full names because they did not want to draw attention to themselves.

"I've just gotten into the elevator and it doesn't go anywhere, and the door won't open back up," the man said.

A representative for P&W Elevators, which performed a full load inspection test on the elevator in 2013 and several other routine inspections as recently as July, declined to comment.

Fatal elevator accidents are rare but not unheard-of. A 5-year-old boy was killed when he tried to jump out of a stalled elevator in a Brooklyn public housing complex in 2008. Maintenance work was blamed for the 2011 death of an advertising executive in Midtown Manhattan, who was pinned when the elevator she was stepping into lurched upward.

Three-bedroom apartments at the Williamsburg luxury building rent for as much as \$6,000 a month, according to listings on the website StreetEasy. The tan brick building, which was draped in yellow caution tape on Friday, offered a gym, a roof deck, parking and a game room.

Isaac Reuven, 41, who reunited with Mr. Modan in New York after they grew up as best friends in Israel, called Mr. Modan's parents in Petah Tikva on Friday to relay the news. Sociable and relaxed, Mr. Modan had decided not to enter the Israeli Army because he said "it's not for me," Mr. Reuven recalled, and he had wanted to spend his life in the city. He was a frequent

traveler, having recently visited South Africa, and liked to go out with friends.

“They took the flower now,” Mr. Reuven said. “So many people loved him, a lot.”

Andy Newman and Rebecca White contributed reporting, and Doris Burke contributed research.

A version of this article appears in print on October 3, 2015, on page A20 of the New York edition with the headline: Man Visiting Brooklyn Apartment Building Dies in an Elevator Accident.

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☐ in favor ☐ in opposition

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I represent: DOB

Address: _____

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I represent: Elevator Constructors Local No. 1

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