



Legislation Text

File #: Int 0192-2002, **Version:** *

Int. No. 192

By Council Members Liu, Reyna, Stewart and the Public Advocate (Ms. Gotbaum) (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to the notice of defective, unsafe, dangerous or obstructed conditions required as a prerequisite to the maintenance of certain civil actions against the city of New York.

Be it enacted by the Council as follows:

Section 1. Paragraphs 2, 3 and 4 of subdivision c of section 7-201 of the administrative code of the city of New York are amended to read as follows:

2. (a) No civil action shall be maintained against the city for damage to property or injury to person or death sustained in consequence of any street, highway, bridge, wharf, culvert, sidewalk or crosswalk, or any part or portion of any of the foregoing including any encumbrances thereon or attachments thereto, being out of repair, unsafe, dangerous or obstructed, unless it appears that written notice of the defective, unsafe, dangerous or obstructed condition, was actually given to the commissioner of transportation [or any person or department authorized by the commissioner to receive such notice], or where there was previous injury to person or property as a result of the existence of the defective, unsafe, dangerous or obstructed condition, and [written notice thereof was given to a city agency] a notice of claim was filed with the city, or there was written acknowledgement from the city of the defective, unsafe, dangerous or obstructed condition, and there was a failure or neglect within [fifteen] sixty days after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or the place otherwise made reasonably safe.

(b) The written notice required by subparagraph (a) of this paragraph shall include:

i. the name, address, and telephone number of the person reporting the defective, unsafe,

dangerous or obstructed condition;

ii. the date on which such condition was observed by such person;

iii. the location of such condition, with such information as is necessary to enable the department of transportation to identify the location of the condition, including, but not limited to, the address of the nearest property to such condition and the names of the nearest streets and cross streets, the distance from the curb line or the building line, and the distance and direction from an easily identifiable landmark in the proximity of the condition;

iv. the nature of such condition;

v. the dimensions of such condition, including, but not limited to, the length, width, depth and/or height of such condition;

vi. such other information as may be necessary to identify the location, nature and dimensions of such condition, including, but not limited to, a photograph or diagram of such condition; and

vii. the signature of such person.

(c) Each notice given pursuant to this paragraph shall:

i. relate to one defective, unsafe, dangerous or obstructed condition only; and

ii. be received within fifteen days of the date on which such condition was observed by the person reporting such condition.

(d) Any person who shall knowingly give false or fraudulent notice or who shall knowingly falsify or allow to be falsified notice of a defective, unsafe, dangerous or obstructed condition shall, upon conviction thereof, be guilty of a misdemeanor.

3. (a) The commissioner of transportation shall keep an indexed record in a separate book of all written notices [which] that the city receives [and acknowledgement of which the city gives of the existence] of such defective, unsafe, dangerous or obstructed conditions, which record shall state the date of receipt of each such notice, the nature and location of the condition stated to exist and the name and address of the person from

whom the notice is received. This record shall be a public record. The record of each notice shall be maintained [in the department of transportation for a period of three years after the date on which it is received and shall be preserved in the municipal archives] for a period of not less than [ten] five years after the date on which it is received.

(b) Where, following receipt of notice given pursuant to paragraph two of this subdivision, a defective, unsafe, dangerous, or obstructed condition is repaired or removed or the place otherwise made reasonably safe, or where the department of transportation is unable to identify the condition on the basis of the notice given pursuant to paragraph two of this subdivision, (i) such notice shall not constitute legal notice as required by paragraph two of this subdivision, and (ii) a new notice shall be required in accordance with paragraph two of this subdivision.

[4. Written acknowledgement shall be given by the department of transportation of all notices received by it.]

§ 2. Subdivision (c) of section 7-201 of the administrative code of the city of New York is amended by adding a new paragraph 4 to read as follows:

4. On and after the effective date of the local law that added this paragraph, any notice given prior to such date that does not satisfy the requirements of paragraph two of this subdivision, as amended by the local law that added this paragraph, shall be deemed to be invalid and shall have no further force and effect.

§ 3. This local law shall take effect on the ninetieth day after it shall have become a law.