

# The New York Times

Sunday, March 8, 1998

## REAL ESTATE

### YOUR HOME

## Facade Law Is Being Tightened

By JAY ROMANO

**ABSTRACT** - Advice for property owners on New York City's plan to tighten inspection requirements for facades of building taller than six stories; experts warn change could force owners to make costly repairs on relatively minor, nonhazardous, decades-old flaws; drawing

**RESPONDING** to concerns about hazards posed by aging masonry on high-rise buildings, the New York City Council voted unanimously last month to expand the scope of Local Law 10, which mandates the inspection of the facades of buildings taller than six stories every five years.

The amendment eliminates a provision in the 18-year-old law that exempts most walls from the inspection requirement. It now exempts only those foot or less from an adjacent building. In addition, it changes an existing provision that allows certain building defects to be classified as "precautionary" - a condition that warrants continued monitoring - and replaces it with a new classification: "safe with a repair and maintenance program." The new classification requires some form of remedial action.

The amendment also requires inspections of any walls that are no longer exempt and have not been previously inspected. Unsafe conditions must be immediately reported to the property owner and the Department of Buildings and repaired within 30 days. The additional inspections must be completed by March 1, 2000.

"This is a serious public safety issue," said Randy Mastro, Deputy Mayor for Operations. Mr. Mastro said the amendment had been proposed by Mayor Rudolph W. Giuliani last December after bricks from a wall of a Madison Avenue office tower rained down upon streets, sidewalks and rooftops below. The wall was exempt under Local Law 10. Mr. Mastro said the Mayor would sign the amendment March 13.

While there is broad public support for a tightening of Local Law 10, some real estate industry experts say that ambiguities about how the new requirements will be administered could result in unnecessary confusion and unwarranted expense for property owners. And that, they say, could undermine the effort to gain prompt and thorough inspections of uninspected facades.

"City officials seem to be in such a rush to get this through that I don't think they've considered the practical

impact it could have," said James G. Samson, a Manhattan lawyer who specializes in co-op and condominium law.

## But industry experts find ambiguities in amendment dealing with falling masonry.

He said that, as the very least, the amendment would require property owners - in including co-op corporations and condominium associations - to spend money on additional inspections. At worst, he said, it could cost property owners thousands of dollars to hire masonry contractors to make costly repairs on relatively minor, non-hazardous, decades - old flaws in their buildings.

"When I heard the details so this new amendment my first thought was, 'I wish I owned a masonry company,'" Mr. Samson said.

Under the current provisions of Local Law 10, architects and engineers may classify conditions they find as "safe," "unsafe" or "precautionary."

The amendment, Mr. Samson said, replaces the "precautionary" classification with one denoting a condition considered "safe with a repair and maintenance program."

"Precautionary" is a neutral word," Mr. Samson said, "But 'safe with repair' has the same impact as saying that it is unsafe."

John F. Flynn, a Bedford, N.Y. engineer, agreed.

"This reality is a bigger deal than it may seem," he said, "because if you see damage that you think is benign, you can't call it 'precautionary' anymore. And there's a high likelihood that engineers who don't want the responsibility of saying something is safe are going to cover themselves by saying it's unsafe or safe with repairs and maintenance."

Mr. Flynn pointed out that there was another difference between the current and proposed classifications.

Under the current law, "precautionary" items, which are included in about 40 percent of the inspection reports filed, can be monitored from one five-year inspection cycle to the next to insure that conditions haven't changed. Under the new amendment, however, defects that receive a "safe with a repair and maintenance program" classification cannot be reported the same way twice.

"That means that the owner must repair and maintain the item within the five-year-cycle," Mr. Flynn said

another source of confusion relates to the fact that while the amendment requires inspections of March 1, 2000, it does not specify when the inspection report must be filed. The safest solution would appear to be to conduct the inspection and file the report before the March 1, 2000 deadline. But that may not be the most efficient strategy for property owners.

Alan S. Epstein, a professional engineer and lawyer who specializes in Local Law 10 inspections, explained that since the law was enacted in 1980, four inspection cycles - the first lasting two years - have been completed. The last one ended Feb. 21, 1997. The period for inspections and filing of reports for the fifth-cycle, he said, begins on Feb. 21, 2000, and ends on Feb. 21, 2002.

Mr. Epstein explained that the law required inspections for a particular cycle to be conducted during the filing period for that cycle. But since the amendment requires inspections of previously uninspected facades to be finished between now and March 1, 2000, it is unclear whether inspections conducted before Feb. 21, 2000 - the start of the fifth-cycle filing period - will be viewed as fulfilling the inspection requirement for the fifth or the fourth cycle.

That is significant, he said, because if they are considered part of the fourth cycle, the inspections will mostly likely have to be repeated for the fifth cycle. Moreover, he said, items classified, as "safe with a repair and maintenance program" in fourth-cycle filings would have to be addressed before the fifth-cycle inspection because such items cannot be carried from one cycle to another.

Gaston Silva, Commission of the New York City Department of Buildings, said that the department hopes to address those issues when it promulgates regulations implementing the amendment.

"The logistics of reporting will be done by rule," Mr. Silva said, adding that public hearings on the proposed rules would be held by the department over the next few months. "The amendment only says that the inspection of previously uninspected facades has to occur within the next two years. And we want it to occur sooner rather than later."

To address concerns about filling deadlines, Mr. Silva said, officials are considering creating a six-month "window period" during which the inspection of previously uninspected facades could be conducted and filed as part of the fifth-cycle filing.

That would seem to encourage property owners to wait until the "window period" to conduct their inspections, thereby undermining the goal of having the inspections conducted "sooner rather than later."

"It also means that those people would be doing their fifth-cycle inspections as early as possible," Mr. Silva said "And that's fine with me".