



MEMORANDUM

TO ALL REF LAWYERS AND PARALEGALS

DATE 5/10/82

FROM: SCOTT GREATHEAD

RE: LOCAL LAW 10

A "Report of Examination" as required by Local Law 10 (a copy of which is attached) is material information which must be fully disclosed in an offering plan. If a sponsor has not had a building inspected as required by Local Law 10, that is material and must be disclosed as well. A sponsor's representation that it will correct any dangerous and hazardous conditions includes "necessary repairs" identified in a Local Law 10 Report of Examination, as required by § C26-105.3(c). These disclosures are required by Part 18, § 18.3 (dd) ("sponsor's statement of building condition").

attachment

NK:dm

SUB-ARTICLE 105.0

MAINTENANCE

§ C26-105.1 Maintenance requirements.—

CASE NOTES

* 1. Where receiver was forbidden by order of appointment from making repairs costing more than \$300 or spending more than he collected except by court order and receiver lacked funds to make repairs, an application to court for authority to repair would have been a futile gesture and thus receiver could not be convicted for failure to maintain building in safe condition.—*People v. Eisenberg*, 100 Misc. 2d 29, 420 N.Y.S. 2d 962 [1979].

§ C26-105.3 **Exterior walls and appurtenances thereof.**—In order to maintain a building's exterior walls and appurtenances thereof in a safe condition, the following additional requirements shall apply to all existing buildings or buildings hereafter erected which are greater than six stories in height:

(a) **Inspection requirements.**—A critical examination of an applicable building's exterior walls and appurtenances thereof shall be conducted at periodic intervals as set forth by rule or regulation of the commissioner, but such examination shall be conducted at least once every five years.

(1) The initial examination for any existing building shall be conducted within two years of the effective date of this local law and the initial examination for any building hereafter constructed shall be conducted in the fifth year following the erection or installation of any exterior wall and/or enclosures.

(2) Such examination shall be conducted and witnessed by or under the direct supervision of a licensed architect or licensed professional engineer by or on behalf of the owner of the building.

(3) Such examination shall include, in addition to an inspection, a complete review of the most recently prepared report.

(4) Such examination shall also be conducted in accordance with applicable rules and regulations promulgated by the commissioner.

(b) **Report of examination.**—Such architect or engineer shall submit a written report certifying the results of such examination to the commissioner, clearly documenting the condition of the exterior walls and appurtenances thereto. The report shall include a record of all significant deterioration, unsafe conditions and movement observed as well as a statement concerning the watertightness of the exterior surfaces. Such report must be signed by and bear the professional seal of such architect or engineer.

(c) **Necessary repairs.**—Upon the filing of the architect's or engineer's report of unsafe condition with the commissioner, the owner, his agent or the person in charge shall immediately commence such repairs, reinforcements or precautionary measures as may be required to make the building's front walls or appurtenances thereof conform to the provisions of this code. Such ameliorative work shall be completed within a time period to be established by rule or regulation of the commissioner.

(d) **Exceptions.**—The additional requirements imposed by this section shall not be applied to:

(1) Exterior walls set back more than twenty-five feet from the street and/or any paved pedestrian walkway.

(2) Buildings having an on-going maintenance program subject to rules and regulations promulgated by the Department of Buildings for the exterior walls and appurtenances thereof, under the supervision of a licensed architect or licensed professional engineer retained by or on behalf of the owner.

(e) **Violations.**—Any person who shall violate, or refuse, or neglect to comply with any provisions of this section shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not exceeding six months, or both; and any such person shall, also, for each offense, be subject to the payment of a penalty in the sum of two hundred fifty dollars for each month there is non-compliance, to be recovered in a civil action brought in the name of the commissioner. (Amended by L. L. 1980, No. 10, Feb. 21.)