

SCRN: CVPSSQV1

DEPT OF ENVIRONMENTAL PROTECTION

DATE: 3/18/16

TERM: 2092

VIOLATION INQUIRY (HISTORY) - PAGE 1

TIME: 12:24:40

VIOLATION: 035116240L ROLL: 00000 IMAGE: 00000 STATUS: HEARING COMPLETED

INSTALLATION: 3071003 FACILITY NO: DISP: DISMISSED

DUE: NOTHING DUE

RESP LAST NAM: SAM POLATSEK

FIRST NAM:

HOUSE: 155

BORO: 3 BROOKLYN

STREET: MESEROLE STREET

CITY: BKLYN

STATE: NY ZIP: 11206

VIOLATION ADDR: HOUSE: 155

BORO: 3 BROOKLYN

STREET: MESEROLE STREET

RTC:

INFRACTIONS: 1 28- 105.12.2

2 3 4

5 6 7

VIOLATION INPUT DATE: 06/24/15

VIOLATION CODE: 182

TAX LIEN: N

VIOLATION DATE/TIME: 05/27/15 0250

OFFICER ID: 2188

RPT LEV: 3C

SCHEDULED DATE/TIME: 09/21/15 1030

ALJ ID: 8902

EXHB ATT: Y

SCHEDULED LOCATION: 4 BROOKLYN

INT: 0.00+ DOCKET:

FACE AMOUNT: 1000.00+

IMPOSED AMOUNT: 0.00+

ADD'L PENALTIES: 0.00+

PAID TO DATE: 1000.00+

NET ALL ADJUSTS: 0.00+

BALANCE DUE: 1000.00-

CMD: \_\_\_\_\_

MSG: \*PRESS PF6 TO DISPLAY ACTUAL HEARING DATE

V

SCRN: CVPSSQV2

DEPT OF ENVIRONMENTAL PROTECTION

DATE: 3/18/16

TERM: 2092

VIOLATION INQUIRY (HISTORY) - PAGE 01 OF 02

TIME: 12:24:55

VIOLATION NO.: 035116240L

ROLL: 00000

IMAGE: 00000

SEQ	REC DATE	EVENT	AMOUNT	CHANGE	NEW BAL
001	05/27/15	ISS - NEW VIOL ISSUANCE	+1000.00	+0.00	+0.00
RMK: 3C, 3, 20150713, 1030, 4, R= , I=					
002	07/16/15	MAI - MAIL NAME/ADDR CHGS	+0.00	+0.00	+0.00
RMK: 6, Y, N, DAVID WINKLER , 134 , BROADWAY					
003	07/16/15	SCH - HEARING RESCHEDULED	+0.00	+0.00	+0.00
RMK: 20150921, 4, 1030, R, N, 0					
004	09/11/15	COM - COMPLY APPR/DISAPPR	+0.00	+0.00	+0.00
RMK: C, , M=1					
005	09/21/15	ASG - HEARING ASSIGNED	+0.00	+0.00	+0.00
RMK: 20150921, 4, 0946					
006	10/01/15	HRG - HEARING RESULTS	+1000.00	+1000.00	+1000.00
RMK: 0946, 4, V, , N, , , R= , I=					
007	10/16/15	PHA - REV PHASE ACTION	+0.00	+0.00	+1000.00
RMK: C, , DU1					
008	10/22/15	PAY - PAYMENT MADE TO ECB	-1000.00	-1000.00	+0.00
RMK: 20151023P , , PAY, +0.00, +0.00, +0.00, +0.00, R= CPNY, I=85908					

CMD: \_\_\_\_\_

MSG: REMARKS ARE SUPPRESSED - PRESS PF6 TO DISPLAY

V

SCRN: CVPSSQV2

DEPT OF ENVIRONMENTAL PROTECTION

DATE: 3/18/16

TERM: 2092

VIOLATION INQUIRY (HISTORY) - PAGE 02 OF 02

TIME: 12:24:59

VIOLATION NO.: 035116240L

ROLL: 00000

IMAGE: 00000

SEQ	REC DATE	EVENT	AMOUNT	EVENT	---BALANCE DUE---	CHANGE	NEW BAL
009	10/29/15	APP - APPEALS PROCESSING	+0.00			+0.00	+0.00
RMK:	R, , , , N, , , , , , , , , , ,			R= , I=			
010	10/29/15	APP - APPEALS PROCESSING	+0.00			+0.00	+0.00
RMK:	, A, , N, , , , , , , , , , ,			R= , I=			
011	12/17/15	APP - APPEALS PROCESSING	+0.00			+0.00	+0.00
RMK:	, , , N, G, N, Y, , , , , , , , ,			R= , I=			
012	12/17/15	APR - APPEAL BOARD RESULTS	+0.00			-1000.00	-1000.00
RMK:	8902, 9, D, , N, , , , , , , , , , ,			R= , I=			

RMK: -

RMK: -

RMK: -

RMK: -

RMK: -

CMD: \_\_\_\_\_ MSG: REMARKS ARE SUPPRESSED - PRESS PF6 TO DISPLAY V



**NOTICE OF VIOLATION AND HEARING**



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

**Violation No. 35116240L**  
**ENVIRONMENTAL CONTROL BOARD**

<b>Respondent</b>	First name (or entity name) <b>Sam</b>	Last name <b>Polatsek</b>
<input checked="" type="checkbox"/> Mailing address (Check if same address as place of occurrence)	Number and street	City
Additional mailing to be sent (agent, care of, other):		License No. (if Applicable) <b>GC-602861</b>
<b>Name</b>	First name	Last name
<b>Mailing address</b>	Number and street	City

**Commissioner's Order To Correct Violations**

<b>Place of occurrence</b>	Boro	Date of violation	Type	Dist.	Code	No.
<b>155 Meserole St.</b>	<b>BK</b>	<b>05/27/15</b>	<b>C</b>	<b>01</b>	<b>KB</b>	<b>01</b>
<b>Construction type</b>	BIN	No. of stories	Block	Lot	Occupancy at time of inspection	Base of violation
<b>U</b>	<b>3071003</b>	<b>6</b>	<b>3044</b>	<b>35</b>	<b>Const. Site</b>	<b>Chief Special</b>

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

<b>Violating Conditions Observed</b>	Stop Work Order <input type="checkbox"/> Full <input type="checkbox"/> Partial	Class 1 <input checked="" type="checkbox"/>	Class 2 <input type="checkbox"/>	Class 3 <input type="checkbox"/>	Recurring Condition <input type="checkbox"/>
Infraction Code	Provision of Law	Work does not conform to approved construction documents			
<b>B182</b>	<b>28-105.12.2</b>	Work in progress under valid permit # 320729137-ALT1. Noted: the plans-dwg. # A-101.02 indicate that windows on the lot line (exp 4) at 2nd through 6th floors should be one single sheet of fire rated glass. Observed: all windows are installed and they are double hung (proline) - ordinary glass.			
Remedy: <b>Conform to approved plans or amendments</b>					
<input type="checkbox"/> ILLEGAL CONVERSION - CLASS 1. Per 28-202.1 & 1RCNY 102-01, additional daily penalties for continued violation of 28-210.1 or 28-210.3 also applicable.					
<input type="checkbox"/> Per 28-202.1 & 1RCNY 102-01, additional "Class 1" daily or "Class 2" monthly penalty also applicable. <input type="checkbox"/> Aggravated II Condition per 1RCNY 102-01(f)					
The Commissioner orders that you timely correct these conditions and file a certificate of such correction. Uncorrected violations are subject to additional violations and penalties. IMPORTANT: See 'Certifying Correction' on reverse.					

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

<b>Resolution options</b>	
<b>CURE DATE</b> <u>    1    /    1    </u>	<b>HEARING DATE</b> <u>07/13/15</u> at <input type="checkbox"/> 8:30 AM <input checked="" type="checkbox"/> 10:30 AM <input type="checkbox"/> 1:30 PM
If a date appears in the box above, you may have the option to admit the violation and certify correction by the "cure date." By doing so, you avoid a hearing before the Environmental Control Board and any penalties which would be assessed at the hearing. Note: Depending on the violation, additional DOB civil penalties (separate from ECB penalties) may apply before a cure can be granted. For more information regarding "cures", see reverse side of the respondent copy of this Notice of Violation.	The hearing date above is mandatory if you are either charged with a Class 1 violation, or the violation is marked as an Aggravated II condition, or if no "cure date" is given on this Notice of Violation. Also, the above hearing date is mandatory for all other types of charges if a certificate of correction (for a cure) is not received by the date indicated to the left, or is not approved by the Department, or if you are offered but have not timely accepted a pre-hearing stipulation or admit the violation. Refer to the DOB ECB Penalty Schedule at <a href="http://www.nyc.gov/buildings">www.nyc.gov/buildings</a> or check the status on BIS query on this website. YOU MUST ATTEND THE HEARING IF YOU WISH TO CONTEST THE VIOLATION.
	<b>Environmental Control Board hearing locations:</b> <input type="checkbox"/> Queens, (718) 298-7300 - 144-06 94th Avenue, 1st fl. <input type="checkbox"/> Manhattan, (212) 361-1400 - 66 John Street, 10th fl. <input checked="" type="checkbox"/> Brooklyn, (718) 923-6100 - 9 Bond Street, 7th fl. <input type="checkbox"/> Bronx, (718) 983-6110 - 3030 3rd Ave., 2nd fl. <input type="checkbox"/> Staten Island, (718) 815-8385 - 350 St. Marks Place, 1st fl.
	Proceedings will be held under the authority of the NYC Charter section 1049-a and the rules promulgated thereunder. This hearing is your opportunity to answer and defend against the allegations set forth above. Failure to appear, unless you admit the violation or an appearance is not required through availability of a Cure or Stipulation (see reverse) will result in a default and imposition of maximum penalties.

For more information. To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call Department of Buildings at 311, or visit the ECB Violation section at [www.nyc.gov/buildings](http://www.nyc.gov/buildings).

Issuing officer's last name, first initial (print)  
**KOGAN, B**  
211818 31C  
Badge number Unit Code

I personally observed the violation(s) charged and/or verified their existence through review of departmental records.  
Issuing officer's signature *B. Kogan*  
This statement is affirmed under penalty of perjury.

**35116240L**

ECB-PC (Rev. 5/13)

# Affidavit / Affirmation of Service

STATE OF NEW YORK, COUNTY OF King's ss:

The undersigned affirms, or, being duly sworn, deposes and says: That I am over 18 years of age, and not a party to this proceeding, and that on the 27 day of 05, 2015 at 2:50 a.m. (p.m.) (circle one) at 155 Meserole St., Brooklyn, NY (full address);

I served the within Notice of Violation and Hearing on the respondent named therein:

Note: You must complete either section A or B or C. Section D must also be completed if service was effected through A1, A2, or B1.

## A. INDIVIDUAL OR PARTNERSHIP

- Individual or Partnership - Personal Service, by delivering and leaving a true copy with \_\_\_\_\_ respondent personally.
- Individual or Partnership - Substituted Service, by delivering a true copy to \_\_\_\_\_ a person of suitable age and discretion at respondent's actual place of business, dwelling or usual place of abode within the state.  
 Required Mailing (Use with 2). On \_\_\_\_/\_\_\_\_/\_\_\_\_ I enclosed a copy of same in a first class post paid envelope properly addressed to respondent's last known residence or actual place of business and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service. The envelope bore the legend "personal & confidential" and did not indicate on the outside thereof, by return address or other wise that the communication was from an attorney or concerned an action against the respondent.

## B. CORPORATION

- Corporation/LLC, by delivering and leaving a true copy with \_\_\_\_\_ an officer, director, managing agent, or general agent (circle one) of said respondent corporation, or any member of the LLC or person designated to receive service of process.
- Secretary of State Service, by delivering to and leaving two copies with \_\_\_\_\_ in the Office of the Secretary of State of the State of New York, personally at the Office of the Secretary of State of the State of New York. Said service was made pursuant to article three of the Business Corporation Law. Deponent further says that s/he knew the person so served as aforesaid to be employed in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said respondent.

## C. ALTERNATE METHOD/CHARTER SERVICE (Posting at place of occurrence)

Alternate method of service pursuant to New York City Charter §1049-a(d)(2) [Affix and Mail Service]. I made the following reasonable but unsuccessful attempt to effectuate service upon respondent or upon any other person whom service may be made as follows: No respondent on site - contacted site manager

A true copy of the notice of violation was posted at the following conspicuous place on the premises where the violation occurred: Posted on fence.

Additional Information:

## D. DESCRIPTION OF INDIVIDUAL SERVED (Complete for A1, A2, or B1)

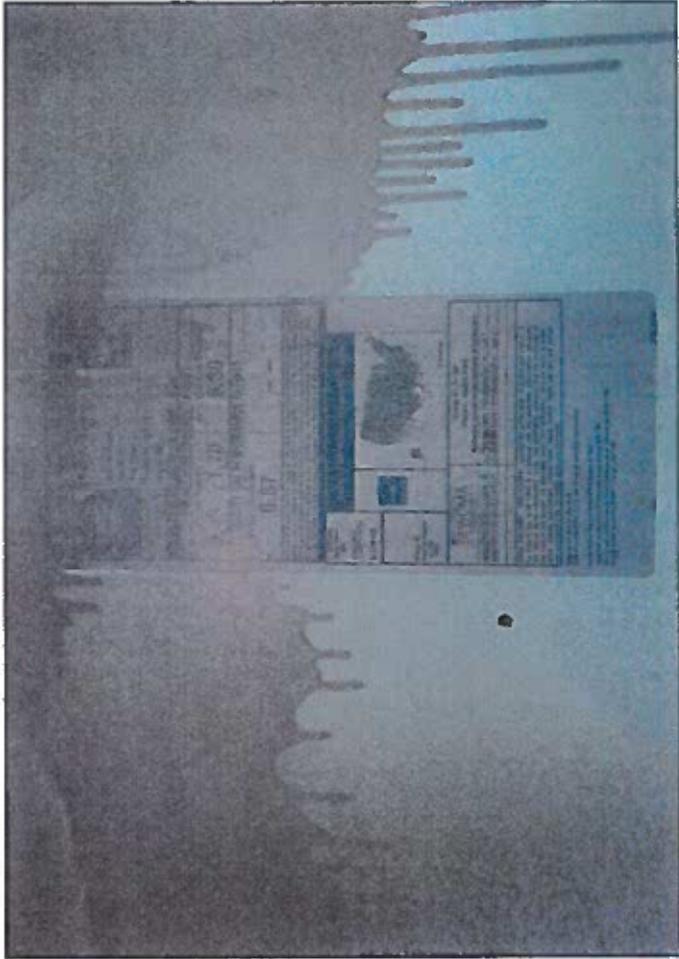
Deponent further states that s/he describes the person actually served as follows:

GENDER	SKIN COLOR	HAIR COLOR	OTHER	AGE	HEIGHT	WEIGHT
<input type="checkbox"/> Male	<input type="checkbox"/> Black	<input type="checkbox"/> Black	<input type="checkbox"/> Balding	<input type="checkbox"/> 14-20 yrs.	<input type="checkbox"/> under 5'	<input type="checkbox"/> under 100 lbs.
<input type="checkbox"/> Female	<input type="checkbox"/> Brown	<input type="checkbox"/> Blond	<input type="checkbox"/> Mustache	<input type="checkbox"/> 21-35 yrs.	<input type="checkbox"/> 5'0"-5'3"	<input type="checkbox"/> 101-130 lbs.
	<input type="checkbox"/> White	<input type="checkbox"/> Brown	<input type="checkbox"/> Beard	<input type="checkbox"/> 36-50 yrs.	<input type="checkbox"/> 5'4"-5'8"	<input type="checkbox"/> 131-160 lbs.
		<input type="checkbox"/> Gray	<input type="checkbox"/> Glasses	<input type="checkbox"/> 51-65 yrs.	<input type="checkbox"/> 5'9"-6'0"	<input type="checkbox"/> 161-200 lbs.
		<input type="checkbox"/> Red		<input type="checkbox"/> Over 65 yrs.	<input type="checkbox"/> Over 6'0"	<input type="checkbox"/> Over 200 lbs.
		<input type="checkbox"/> White				

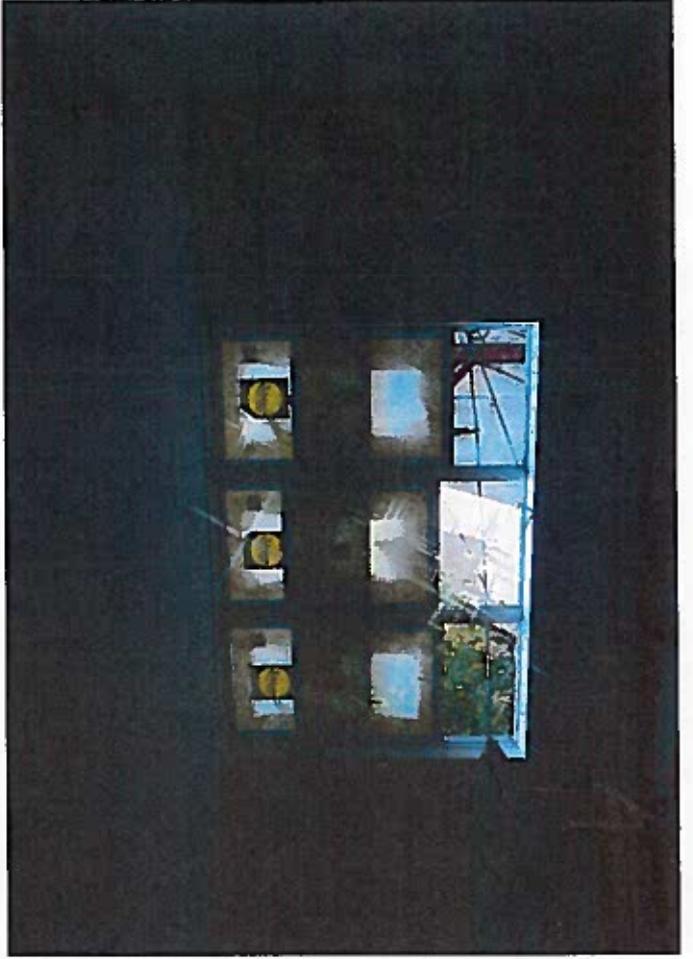
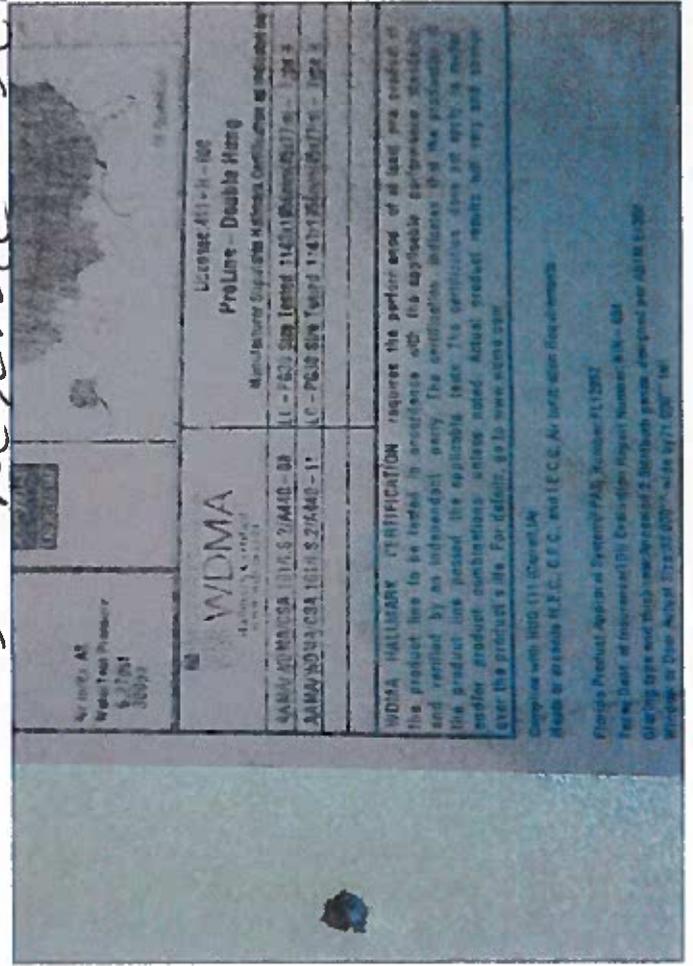
Other identifying characteristics

Served by: Signature <u>B. Kogan</u> Print full name <u>BORIS KOGAN</u> <input checked="" type="checkbox"/> Issuing officer, City of New York This service statement is affirmed under penalty of perjury.	<input type="checkbox"/> Process Server (complete next box)	For process server SWORN TO BEFORE ME ON: ____ day of _____ Notary signature _____
--	--	---

Supervisor's Signature [Signature]  
(FOR OFFICE USE ONLY)



155 Hesperole St.



155 MESEROLE ST.  
155 MESEROLE ST.  
BROOKLYN NY 11205

Architect  
**DE-JAN LU, RA**  
DAU Architects  
1 Broadway Street, Suite 208  
New York, NY 10003  
Tel: 212 512 3333  
Fax: 212 512 3334

Design Consultant  
**J FRANKL ASSOCIATES**  
100 West Street  
Brooklyn, NY 11211  
Tel: 718 996 2200

Owner  
**USI MEDICAL LLC**  
155 MESEROLE ST.  
BROOKLYN NY 11207  
Tel: 718 584 6715  
General Contractor

Structural Engineer  
**ROBERT HANCOCK P.E.**  
115 DEERFIELD  
BROOKLYN NY 11217  
Tel: 718 584 6715  
MECHANICAL ENGINEER  
**REGO PARK NY 11274**  
Tel: 718 793 8349

Check the actual drawings and specifications for the presence of various notes and conditions. The contractor shall be responsible for obtaining all necessary permits, licenses, and approvals. The contractor shall be responsible for obtaining all necessary permits, licenses, and approvals. The contractor shall be responsible for obtaining all necessary permits, licenses, and approvals.

NO.	DATE	DESCRIPTION
01	11-11-11	AS BUILT CONDITIONS
02	12-08-2014	REVISIONS

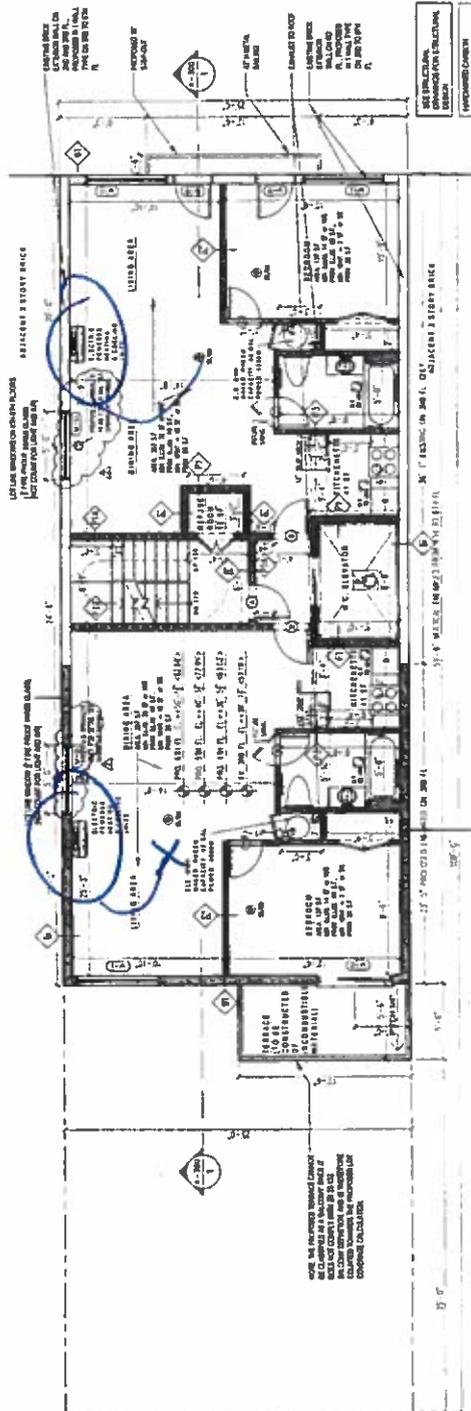


PROPOSED FLOOR PLANS

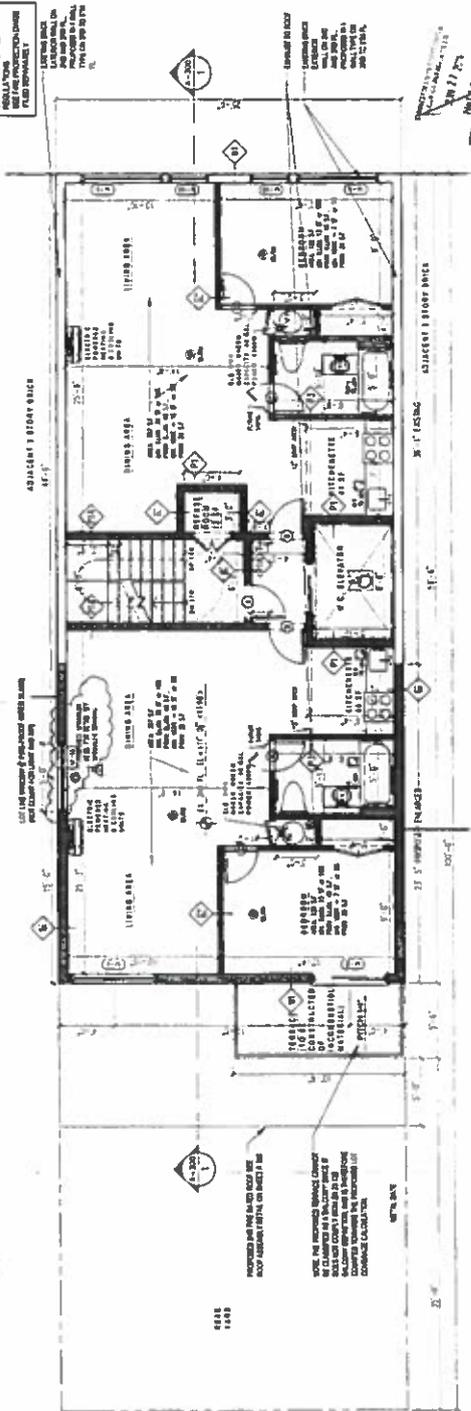
DOCS JOB # 330272117  
DATE 07/07/03  
DATE 04-08-2014  
DESIGNER JWC  
SCALE 1/4" = 1'-0"

ARCHITECTURAL ELECTRICAL MECHANICAL

**A-101.02**  
10 OF 21  
DOE BCI-JAN CODE



2 PROPOSED TYPICAL 6TH FLOOR PLAN  
1/4" = 1'-0"



1 PROPOSED 2ND FLOOR PLAN  
1/4" = 1'-0"

**WALL LEGEND**

(Symbol)	EXISTING BRICK EXTERIOR WALL
(Symbol)	PROPOSED CONCRETE FOUNDATION WALL
(Symbol)	PROPOSED LIGHT GAUGE METAL STD EXTERIOR BEARING WALL
(Symbol)	PROPOSED LIGHT GAUGE METAL STD PARTITION
(Symbol)	PROPOSED LIGHT GAUGE METAL STD PARTITION
(Symbol)	PROPOSED LIGHT GAUGE METAL STD PARTITION
(Symbol)	PROPOSED LIGHT GAUGE METAL STD PARTITION

SEE A-300 FOR DETAILS

PROVISIONS OF LATEST EDITIONS OF THE IBC AND ALL EDITIONS OF THE IBC SHALL BE USED UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS.

**EQUIPMENT SCHEDULE**

1	SEE NEW
2	SEE NEW
3	SEE NEW
4	SEE NEW
5	SEE NEW
6	SEE NEW
7	SEE NEW
8	SEE NEW
9	SEE NEW
10	SEE NEW

10/9 New

AMENDED PLAN



**eSubmit Search** **LOGOUT**

BROOKLYN

**Public Workstation Plan Viewing**

You are logged into this workstation to view plans associated with a requested application number. You are the only person authorized to view plans during this session. You must log out before leaving this workstation. If you need help or printouts, please log out of the workstation and see a Department representative for assistance. A failure to comply with this procedure may be reported to the Department of Investigation.

Premises: 155 MESEROLE STREET BROOKLYN		Number of Sheets Scanned: 102		Job No: 320729137	
BIN:3071003 Block: 3044 Lot: 35				Job Type: A1 - ALTERATION TYPE 1	
PLAN NAME	FLOOR	STATE	DATE SCANNED	SCAN CODE	NOTES
Plumbing (P) -700.02			2015/08/24 17:41:21	ESHS8919573	0
Architectural (A) -102.03			2015/08/24 17:40:56	ESHS8341338	0
Architectural (A) -100.03			2015/08/14 10:24:02	ESHS1279585	0
Architectural (A) -100.02		superseded	2015/07/30 10:22:05	SC341787296	0
Plumbing (P) -700.01		superseded	2015/07/24 11:23:53	SC340369718	0
Architectural (A) -102.02		superseded	2015/07/24 11:23:43	SC341787302	0
Architectural (A) -500.01			2015/07/18 14:07:15	SC341787286	0
Energy Analysis (EN) -601.00			2015/07/18 14:09:49	SC340988504	0
Energy Analysis (EN) -602.01			2015/07/18 14:10:46	SC341787311	0
Architectural (A) -600.02			2015/07/18 14:09:33	SC341787289	0
Energy Analysis (EN) -601.01			2015/07/18 14:10:29	SC341787292	0
Architectural (A) -502.00			2015/07/18 14:09:22	SC340988498	0
Architectural (A) -300.02			2015/07/18 14:07:05	SC341787308	0
Architectural (A) -103.00			2015/07/18 14:06:11	SC341787305	0
Architectural (A) -201.01			2015/07/18 14:06:42	SC340369719	0
Architectural (A) -000.00			2015/07/18 14:04:14	SC340988514	0
Architectural (A) -101.02			2015/07/18 14:05:04	SC341787299	0
General (G) -001.00			2015/07/18 14:03:56	SC340988517	0
Zoning (Z) -003.00			2015/07/18 14:03:41	SC340988522	0
Architectural (A) -001.01			2015/07/18 14:04:32	SC340369730	0
Zoning (Z) -000.02			2015/07/18 14:01:08	SC341787293	0
Title-Cover Sheet (T) -000.02			2015/07/18 14:00:23	SC341787290	0
Sprinkler (SP) -003.01			2014/12/09 10:07:48	ESHS5895606	0
Sprinkler (SP) -002.01			2014/12/09 10:07:11	ESHS2380863	0
Sprinkler (SP) -001.01			2014/12/09 10:06:44	ESHS9027889	0
Sprinkler (SP) -003.00		superseded	2014/11/20 11:09:47	SC341419365	0
Sprinkler (SP) -002.00		superseded	2014/11/20 11:09:40	SC341419362	0
Sprinkler (SP) -001.00		superseded	2014/11/20 11:09:30	SC341419380	0
Excavation (SOE) -101.0			2014/10/08 10:59:04	SC342067209	0
Excavation (SOE) -100.0			2014/10/08 10:58:43	SC342067215	0
Structural (S) -600.0			2014/10/08 10:58:26	SC342067218	0
General (G) -000.00			2014/09/24 11:14:50	SC342067202	0
Structural (S) -201.0			2014/09/24 11:14:37	SC342067205	0
General (G) -000.00			2014/09/24 11:14:25	SC342067196	0
Structural (S) -100.0			2014/09/24 11:10:26	SC342067199	0
Structural (S) -302.0			2014/09/09 09:58:14	SC342067201	0
Structural (S) -301.0			2014/09/09 09:57:38	SC342067204	0
Structural (S) -300.00			2014/09/09 09:57:10	SC342067210	0
Structural (S) -203.0			2014/09/09 09:56:39	SC342067207	0
Structural (S) -501.00			2014/09/09 09:55:59	SC342067221	0

<u>Structural (S) -500.0</u>	2014/09/09 09:55:31	SC342067224	0
<u>Structural (S) -400.0</u>	2014/09/09 09:54:54	SC342067223	0
<u>Structural (S) -303.0</u>	2014/09/09 09:54:24	SC342067220	0
<u>Energy Analysis (EN) -602.01</u>	2014/07/31 09:18:04	SC341787287	0
<u>Energy Analysis (EN) -601.00</u>	2014/07/31 09:17:24	SC341787315	0
<u>General (G) -000.00</u>	2014/07/31 09:16:46	SC341787312	0
<u>Architectural (A) -500.01</u>	2014/07/31 09:16:13	SC341787309	0
<u>Architectural (A) -102.0</u>	2014/07/31 09:14:16	SC341787300	0
<u>Architectural (A) -103.0</u>	2014/07/31 09:15:02	SC341787303	0
<u>Architectural (A) -300.02</u>	2014/07/31 09:15:47	SC341787306	0
<u>Architectural (A) -101.02</u>	2014/07/31 09:12:39	SC341787297	0
<u>Architectural (A) -100.02</u>	2014/07/31 09:12:11	SC341787294	0
<u>Zoning (Z) -000.02</u>	2014/07/31 09:11:36	SC341787291	0
<u>Title-Cover Sheet (T) -000.01</u>	2014/07/31 09:11:03	SC341787288	0
<u>Structural (S) -600.0</u>	superseded 2014/03/14 11:15:03	SC343549663	0
<u>Architectural (A) -600.01</u>	2014/02/21 11:35:58	SC340369736	0
<u>Architectural (A) -200.01</u>	2014/02/21 11:33:27	SC340369740	0
<u>Architectural (A) -102.01</u>	2014/02/21 11:32:42	SC340369743	0
<u>Architectural (A) -200.00</u>	superseded 2014/02/05 11:26:38	SC341480713	0
<u>Architectural (A) -101.00</u>	superseded 2014/02/05 11:26:32	SC341480705	0
<u>Architectural (A) -100.00</u>	superseded 2014/02/05 11:26:23	SC341419334	0
<u>Plumbing (P) -700.00</u>	superseded 2014/02/05 11:26:11	SC341419383	0
<u>Architectural (A) -600.00</u>	superseded 2014/02/05 11:25:43	SC341419367	0
<u>Architectural (A) -300.00</u>	superseded 2014/02/05 11:25:23	SC341480707	0
<u>Architectural (A) -201.00</u>	superseded 2014/02/05 11:25:11	SC341480710	0
<u>Standpipe (SD) -203.0</u>	2014/01/30 14:08:58	SC340283007	0
<u>Structural (S) -200.0</u>	2014/01/30 14:06:45	SC340283001	0
<u>Structural (S) -201.0</u>	2014/01/30 14:07:54	SC340282998	0
<u>Structural (S) -202.0</u>	2014/01/30 14:08:24	SC340283004	0
<u>Structural (S) -300.0</u>	2014/01/30 13:58:11	SC340283010	0
<u>Structural (S) -301.0</u>	2014/01/30 13:59:33	SC340283013	0
<u>Structural (S) -303.0</u>	2014/01/30 14:00:32	SC340283019	0
<u>Structural (S) -302.0</u>	2014/01/30 14:00:03	SC340283016	0
<u>Structural (S) -501.0</u>	2014/01/30 12:59:18	SC340283018	0
<u>Structural (S) -500.0</u>	2014/01/30 12:58:17	SC340283021	0
<u>Structural (S) -400.0</u>	2014/01/30 12:57:35	SC340283022	0
<u>Structural (S) -202.00</u>	superseded 2014/01/28 11:07:59	SC341419377	0
<u>Structural (S) -201.00</u>	superseded 2014/01/28 11:07:39	SC341419374	0
<u>Structural (S) -200.00</u>	superseded 2014/01/28 11:07:32	SC341419371	0
<u>Structural (S) -600.00</u>	superseded 2013/12/24 11:42:33	SC343022751	0
<u>Excavation (SOE) -102.00</u>	2013/11/19 18:39:41	SC343199512	0
<u>Excavation (SOE) -101.00</u>	2013/11/19 18:39:27	SC343199509	0
<u>Excavation (SOE) -100.00</u>	2013/11/19 18:39:07	SC343199506	0
<u>Excavation (SOE) -101.0</u>	superseded 2013/11/18 11:18:21	SC341289393	0
<u>Structural (S) -601.00</u>	2013/11/07 11:22:40	SC343022754	0
<u>Structural (S) -100.00</u>	2013/06/17 17:54:01	SC341419368	0
<u>Energy Analysis (EN) -602.00</u>	2013/06/17 17:52:04	SC341419361	0
<u>Architectural (A) -502.00</u>	2013/06/17 17:51:05	SC341419370	0
<u>Energy Analysis (EN) -601.00</u>	2013/06/17 17:51:45	SC341419364	0
<u>Zoning (Z) -002.00</u>	2013/06/17 17:45:14	SC341419349	0
<u>Zoning (Z) -001.00</u>	2013/06/17 17:45:01	SC341480708	0
<u>Zoning (Z) -000.00</u>	2013/06/17 17:44:42	SC341419355	0
<u>Title-Cover Sheet (T) -000.00</u>	2013/06/17 17:44:21	SC341419358	0
<u>Architectural (A) -501.00</u>	2013/06/17 17:49:58	SC341419373	0
<u>Architectural (A) -500.00</u>	2013/06/17 17:49:45	SC341419376	0

<u>Architectural (A) -102.00</u>	2013/06/17 17:48:29	SC341480716	0
<u>Zoning (Z) -003.00</u>	2013/06/17 17:46:37	SC341419346	0
<u>General (G) -001.00</u>	2013/06/17 17:46:53	SC341419343	0
<u>Structural (S) -400.00</u>	2013/06/17 17:58:14	SC340988509	0
<u>Structural (S) -500.00</u>	2013/06/17 17:58:40	SC340988506	0
<u>Structural (S) -501.00</u>	2013/06/17 17:58:56	SC340988503	0
<u>General (G) -000.0</u>	2013/04/19 16:41:12	SC121010006	0



**Buildings**

NYC Buildings Department  
280 Broadway New York, NY 10007

Rick D. Chandler PE, Commissioner



**BUILDINGS BULLETIN 2015-017**  
Technical

**Supersedes:** TPN 10/1987

**Issuer:** Thomas Fariello, R.A.  
First Deputy Commissioner

**Issuance Date:** June 30, 2015

**Purpose:** To clarify code requirements for lot line openings

<b>Related Code/Zoning Section(s):</b>	BC Table 704.8 (2008 Code)	AC 28-103.3	BC 715
	BC Table 705.8 (2014 Code)	AC 28-103.8	BB 2008-007
	Table 3-4 (1968 Code)	AC 27-331	BB 2015-008

**Subject(s):** [Redacted] lot line, Exterior opening, Fire separation distance, Openings, exterior wall, Exterior wall, fire-resistance-rated, Fire windows, Glazing, fire-protection-rated, Openings, water curtain, Opening protectives, tax lot line, Opening protectives, zoning lot line

This bulletin is to clarify code requirements for lot line openings.

**I. Distance from a lot line.** BC Table 705.8 (BC Table 704.8 of the 08 Code and Table 3-4 and 27-331 of the 1968 Code) limits the amount of exterior openings based on "fire separation distance" ("exterior separation" in the 1968 Code). Both terms are defined and are measured perpendicularly from the face of the exterior wall to the tax lot line (interior lot line in the 68 Code). The application of these provisions in a lot line condition will determine whether exterior openings are permitted, and if so, the maximum area of such permitted openings, and also whether such permitted openings must be protected.

**II. Glazed exterior walls as rated assemblies.** Glazed areas that are fixed closed, labeled as fire-resistance-rated glazing and tested as part of a fire-resistance-rated wall assembly in accordance with ASTM E119 as required for exterior walls for a lot line condition, in accordance with section BC 705.5 (BC 704.5 of the 08 Code) (typically one hour, per BC Table 602), are not considered "openings," and are therefore permitted as-of-right to an unlimited extent. However, any other glazed areas not meeting the conditions above, whether windows or fixed glazing, and even if protected per section BC 715.5 in accordance with NFPA 257 or UL 9 as fire windows, by fire shutters or by sprinklers, are considered "openings," and are therefore subject to the limitations of BC Table 705.8 (BC Table 704.8 of the 08 Code or Table 3-4 and 27-331 of the 68 Code), and as set forth in the bulletin.

**III. Lot line condition for other than R-2 and R-3.** For other than Group R-2 and R-3 occupancies, as-of-right openings are not permitted for lot line conditions per BC Table 705.8 (BC Table 704.8 of the 08 Code or Table 3-4 and 27-331 of the 68 Code)\*.

**IV. Lot line condition for R-2 and R-3.** In accordance with Table BC 705.8 footnote k (BC Table 704.8 of the 08 Code footnote j or Table 3-4, footnote a, of the 68 Code), as-of-right openings on the tax lot line are permitted in Group R-2 and R-3 occupancies, provided they do not exceed 10% of the area of the façade of the story in which they are located\* (see Illustration 1). Such openings are required to be (i) opening protectives pursuant to section BC 715 (27-331 of the 1968 Code), or (ii) in cases where the subject Group R-2 or R-3 building is fully sprinklered, protected by an approved water curtain using automatic sprinklers approved for that use and installed in accordance with NFPA 13 as modified in Appendix Q (per section BC 705.8.2 of the 2014 Code or BC 704.12 of the 08 Code, Exception).

Such openings cannot be used to satisfy required natural light or ventilation except in accordance with Part VI(A).

In accordance with section BC 705.8.2, openings that are fire window assemblies shall comply with section BC 715 as fire-protection rated glazing. Where operable fire window assemblies are provided, the fire-protection rated glazing within the fire window assemblies must be automatic-closing per section BC 715.5.6.

**V. 60 feet or more between openings and neighboring building.** BC Table 705.8 footnote m (BC Table 704.8, footnote l or Table 3-4, footnote b, of the 68 Code) provides an exception to the requirements in Parts III and IV above, for openings that are sufficiently far away from neighboring buildings that are in front of such openings (see Illustration 2). For any portion of an exterior wall that is at least 60 feet away from neighboring building, measured in any direction and any angle to the nearest portion of such neighboring building (including rooftop equipment, bulkheads, etc.), the borough examiner may approve such portion of the exterior wall with unlimited openings, and such openings need not be protected, subject to the following:

- A. The owner shall file a lot line window restrictive declaration against the tax lot in accordance with Buildings Bulletin 2015-008 or its successor bulletin, requiring that the owner shall immediately close such openings if any neighboring building is later altered or constructed to come within the 60 foot distance limitation. The Schedule A/Certificate of Occupancy for the subject building shall recite the CRFN number for the declaration recorded against its lot.
- B. The construction documents shall include information regarding the obligations imposed by the restrictive declaration.
- C. The structural and mechanical plans shall demonstrate that they have the capacity to accommodate human occupancy and additional loads, presuming that the exterior wall enclosures are in place.
- D. Openings above the top of any chimney within the distances specified in section BC 2113.9 (Section 27-859 of the 1968 Code) shall be fixed.

**VI. Windows providing required natural light or ventilation on zoning lots with multiple tax lots.** In accordance with Section 30 of the Multiple Dwelling Law, windows providing natural light or ventilation that do not open to a street must open directly "upon a lawful yard, court or space above a setback upon the *same lot* as that occupied by the multiple dwelling in which such room is situated." The term "same lot" in this context is interpreted to be the zoning lot, even where the zoning lot is comprised of multiple tax lots. However, with respect to analyzing applicable fire safety requirements for opening protectives, the Building Code measures the fire separation distances (exterior separations) to the tax lot line(s).

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\* However, beyond 60 feet from adjoining buildings, unlimited, unprotected openings may be permitted where approved by the borough examiner in accordance with Part V of this bulletin.

- A. Windows subject to the 10% opening limitations for R-2 and R-3 occupancies.** In cases where buildings are located on the same zoning lot but on different tax lots, windows that are located at tax lot lines (internal to the zoning lot) and therefore are subject to the 10% opening limitations per Part IV, are permitted to satisfy required natural light and ventilation (see Illustration 3), and may be approved by the borough examiner, where:
1. the openings open onto open areas that meet the dimensional and area requirements of yards or courts as specified in the Zoning Resolution, located on the same zoning lot;
  2. the openings are provided with the minimum perpendicular distances, as may be required by the Zoning Resolution, located on the same zoning lot;
  3. a light and air easement is recorded against the adjacent tax lot(s) in accordance with Buildings Bulletin 2015-008 or its successor bulletin, and the Schedule A/Certificate of Occupancy for the subject building recites the CRFN number for the easement that is recorded against the adjacent lot(s); and
  4. the openings shall be opening protectives pursuant to section BC 715 (27-331 of the 1968 Code) or, ~~if the subject R-2 or R-3 building is fully sprinkled, the openings are protected by an approved water curtain using automatic sprinklers approved for that use, and installed in accordance with NFPA 13 as modified in Appendix Q (per section BC 705.8.2 of the 2014 Code or BC 704.12 of the 08 Code, Exception). In accordance with section BC 705.8.2, openings that are fire window assemblies shall comply with section BC 715 as fire-protection rated glazing. Where operable fire window assemblies are provided, the fire-protection rated glazing within the fire window assemblies must be automatic-closing per section BC 715.5.6.~~
  5. For any portions of an exterior wall meeting the conditions in Part V above, the borough commissioner may approve the remaining 90% of such portions of the exterior wall with unlimited openings provided they are not used to satisfy natural light or ventilation requirements (see Illustration 4). The unlimited openings within such portions of the exterior wall meeting the conditions in Part V above need not be protected.
- B. Practical Difficulty for Group R-2 and R-3 occupancies.** In cases where buildings are located on the same zoning lot but on different tax lots, where the applicant demonstrates a practical difficulty in providing required light and ventilation for habitable rooms in an R-2 or R-3 occupancy located along a tax lot line (internal to the zoning lot) within the 10% tabular limitation of Part IV, the borough commissioner may authorize openings in excess of these limitations upon a finding of equally safe alternative, as per section AC 28-103.3. The borough commissioner shall be guided by the following, as may be appropriate to the specific case (see Illustration 5)
1. **Windows less than 30 feet above roofs of buildings on same zoning lot.** Where windows open above the roofs of buildings on the same zoning lot, and such windows are less than 30 feet, measured vertically, to the highest roof, rooftop equipment or bulkhead, the maximum allowable openings shall not be increased and shall remain subject to the 10% limitation.
  2. **Windows 30 feet or more above roofs of buildings on the same zoning lot.** Where windows open above the roofs of buildings on the same zoning lot, and such windows are 30 feet or more, measured vertically, to the highest roof, rooftop equipment or bulkhead, the maximum allowable openings may be authorized to exceed the 10% tabular area subject to the guiding limitations and conditions, below:





2015 SEP 21 AM 8:04

ECB



Office of Administrative Trials and Hearings  
The Environmental Control Board Hearings

Tel: 1-844-OATH-NYC (1-844-628-4692)

13111041

66 John Street  
10<sup>th</sup> Floor  
New York, NY 10038  
Fax # 212-436-0715

9 Bond Street  
7<sup>th</sup> Floor  
Brooklyn, NY 11201  
Fax # 718-875-5561

144-06 94<sup>th</sup> Avenue  
Main Floor  
Jamaica, NY 11435  
Fax # 718-298-7075

350 St. Marks Place  
Main Floor  
S.I., NY 10301  
Fax # 718-815-8391

3030 Third Avenue  
2<sup>nd</sup> Floor  
Bronx, NY 10455  
Fax # 718-993-3077

NOTICE OF APPEARANCE

SAM POLATSEK

RESPONDENT NAME (as written on the ticket)

Where the Hearing Decision will be mailed (Print Clearly)

David Winkler

Name

134 Broadway # 45

Street

Apt#

Brooklyn NY 11249

City

State

Zip Code

(Area Code) Telephone Number

E-Mail Address

Your Name - Please Print

David Winkler

Your Name - Please Sign

YOU ARE:

YOU ARE HERE TO REQUEST A(N):

RESPONDENT

HEARING

AUTHORIZED

ADJOURNMENT

REPRESENTATIVE

ADMIT

List Violation No.(s)

1 ticket number per line

35116240L-RE<sup>NE</sup>

FOR OFFICE USE ONLY

ADJ.

D.R.

FOR OFFICE USE ONLY

ORDER OF ADJOURNMENT

ON THE MOTION/ORDER OF  RESPONDENT  PETITIONER  HEARING OFFICER  
THE HEARING ON THE ABOVE DESCRIBED MATTER(S) IS HEREBY ADJOURNED TO:

1.  MONTH DAY YEAR AT A.M./P.M. 2.  SUCH DATE AND TIME AS E.C.B. MAY SET.  
RESPONDENT WILL BE NOTIFIED OF NEW DATE.

ISSUING OFFICER REQUIRED

NAME

ID#

AGENCY

PETITIONER / RESPONDENT TO PRESENT FURTHER EVIDENCE / WITNESS

Joseph J. Padell  
HEARING OFFICER

946  
HEARING OFFICER #

9/21/15  
DATE



# The Environmental Control Board

A Division of the Office of Administrative Trials and Hearings

55 John Street  
10<sup>th</sup> Floor  
New York, NY 10038  
Tel. # 1-844-OATH-NYC  
(1-844-628-4692)  
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(1-844-628-4692)  
Fax # 718-875-5561

144-08 94<sup>th</sup> Avenue  
Main Floor  
Jamaica, NY 11435  
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(1-844-628-4692)  
Fax # 718-236-7075

350 St. Marks Place  
Main Floor  
S.L., NY 10301  
Tel. # 1-844-OATH-NYC  
(1-844-628-4692)  
Fax # 718-815-8391

3030 Third Avenue  
2<sup>nd</sup> Floor  
Bronx, NY 10455  
Tel. # 1-844-OATH-NYC  
(1-844-628-4692)  
Fax # 718-983-3077

## REQUEST FOR A NEW HEARING DATE

Date of Request: \_\_\_\_\_

Respondent: Sam Polatsek

(The Respondent is the person or business entity named on the front of the violation.)

Request submitted by: David Winkler

Requestor's Relationship to Respondent: \_\_\_\_\_ Respondent  Authorized Representative\*

\*If Authorized Representative, who authorized you to represent the respondent? Respondent

What is his/her relationship to the respondent? Representative

Requestor's Full Mailing Address: 134 Broadway AS

BK NY 11219

Requestor's Telephone Number: (718) 298-3292

Violation number(s):

351-162-402

2015 JUL 16 AM 11:41  
ECB

Reason for new hearing date request:

UNKNOWN

FOR OFFICE USE ONLY (Do not write below this line)

Old hearing date: \_\_\_\_\_

New hearing date: PER HIS REQUEST. SEPT 21<sup>ST</sup> 2015 8<sup>30</sup> AM

Respondent/Authorized Representative was informed that this is a final reschedule.  
Respondent/Authorized Representative was advised of the pre-hearing stipulation.

Request taken by: Diana Elyse



Department's website. The issue is not whether the condition was subsequently corrected but solely one of whether there was a violating condition as of the date the ticket was written and I find that based on the credible evidence, there was such a violating condition.

A Class I violation is an immediately hazardous violation which are violations specified as such by the City Construction Codes or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action. The conditions described in the ticket constitute such a Class I violation because of the potential fire problems.

The ticket is sustained and the Board approved penalty is imposed

<b>TOTAL CIVIL PENALTY: \$1,000.00</b>		
		
<small>Thu Oct 2015 10/01/15 13:29:05</small>	<small>Control 2</small>	10/01/2015
Joseph Handlin, Hearing Officer		Date

**PAYMENT DUE WITHIN TEN (10) DAYS  
READ BACK OF THIS ORDER - PROTECT YOUR RIGHTS**



**THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD**

Brooklyn Office  
9 Bond Street 7th Floor, Brooklyn, NY 11201  
(844) 628-4692

**NOTICE OF APPEARANCE**

**Violation Number(s):** 035116240L  
**Respondent:** SAM POLATSEK  
**Respondent/Representative:** SAM POLATSEK  
**D&O Mail Address:** 155 MESEROLE STREET  
BKLYN, NY 11206

---

Respondent/Representative Signature

---

(FOR ECB USE ONLY)

The aforementioned participant appeared before me on this 21st day of September 2015

- Hearing adjourned (You will have to return to ECB on a date in the future.)  
 Decision reserved (The hearing is complete. You will receive a decision in the mail.)

Additional Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Joseph Handlin NYC2112 0946



**THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD**

Brooklyn Office  
9 Bond Street 7th Floor, Brooklyn, NY 11201  
(844) 628-4692

**NOTICE OF APPEARANCE**

**Violation Number(s):** 035116240L  
**Respondent:** SAM POLATSEK  
**Respondent/Representative:** David Winkler  
**D&O Mail Address:** 134 Broadway, Suite 45  
Brooklyn, NY 11249

\_\_\_\_\_  
Respondent/Representative Signature

\_\_\_\_\_  
(FOR ECB USE ONLY)

The aforementioned participant appeared before me on this 21st day of September 2015

- Hearing adjourned (You will have to return to ECB on a date in the future.)  
 Decision reserved (The hearing is complete. You will receive a decision in the mail.)

**Additional Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Joseph Handlin NYC2112 0946

**Panel Package**

Panel Date: 12/10/15 Appeals Atty # 835  
PM

NOV: 351 162 40L Appeal No.: 1501139

Respondent: Sam Polatssek

Number of Attached Pages:

ECF: 13111041



NOTICE OF VIOLATION AND HEARING



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

Violation No. 35116240L ENVIRONMENTAL CONTROL BOARD

Respondent: Sdm Polatsek. License No. GC-602861. Construction Activity.

Commissioner's Order To Correct Violations

Place of occurrence: 155 Meserole St, BK, 05/27/15. Type: C. Code: KB 01. Construction type: 4. EBN: 3071003. No. of stories: 6. Block: 3044. Lot: 35. Occupancy at time of inspection: Constr. site. Basis of violation: Chief Special.

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

Violating Conditions Observed: Stop Work Order Class 1 checked. Work does not conform to approved construction documents. Work in progress under valid permit # 320729137-ALT1. Observed: all windows are installed and they are double hung (proline) - ordinary glass. Remedy: Conform to approved plans or amendments.

ILLEGAL CONVERSION - CLASS 1. Per 28-202.1 & 1RCNY 102-01, additional daily penalties for continued violation of 28-210.1 or 28-210.3 also applicable.

The Commissioner orders that you timely correct these conditions and file a certificate of such correction. Uncorrected violations are subject to additional violations and penalties. IMPORTANT: See "Certifying Correction" on reverse.

Important Information: As detailed in § 28-201.4 and Section 102-01 of Subchapter 0 of Title 1 of the Rules of the City of New York, violations may be subject to aggravated penalties of the first order, which shall be imposed in accordance with the ECB Buildings Penalty Schedule.

Resolution options

CURE DATE: 1/1. HEARING DATE: 07/13/15 at 10:30 AM. Environmental Control Board hearing locations: Queens, Manhattan, Brooklyn, Bronx, Staten Island.

For more information, To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call Department of Buildings at 311, or visit the ECB Violation section at www.nyc.gov/buildings.

Issuing officer's last name, first initial (print): KOBANI, B. Badge number: 21158. Unit Code: 31C.

I personally observed the violation(s) charged and/or verified their existence through review of departmental records. Issuing officer's signature: [Signature]. This statement is affirmed under penalty of perjury.

35116240L

# Affidavit / Affirmation of Service

STATE OF NEW YORK, COUNTY OF King's ss:

The undersigned affirms, or, being duly sworn, deposes and says. That I am over 18 years of age, and not a party to this proceeding, and that on the 27 day of 05, 2015 at 2:50 a.m. P.M. (circle one) at 155 Meserole St., Brooklyn, NY (full address)

I served the within Notice of Violation and Hearing on the respondent named therein:

Note: You must complete either section A or B or C. Section D must also be completed if service was effected through A1, A2, or B1.

## A. INDIVIDUAL OR PARTNERSHIP

- Individual or Partnership - Personal Service, by delivering and leaving a true copy with \_\_\_\_\_ respondent personally.
- Individual or Partnership - Substituted Service, by delivering a true copy to \_\_\_\_\_ a person of suitable age and discretion at respondent's actual place of business, dwelling or usual place of abode within the state.  
 Required Mailing (Use with 2). On \_\_\_\_/\_\_\_\_/\_\_\_\_ I enclosed a copy of same in a first class post paid envelope properly addressed to respondent's last known residence or actual place of business and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service. The envelope bore the legend "personal & confidential" and did not indicate on the outside thereof, by return address or other wise that the communication was from an attorney or concerned an action against the respondent.

## B. CORPORATION

- Corporation/LLC, by delivering and leaving a true copy with \_\_\_\_\_ an officer, director, managing agent, or general agent (circle one) of said respondent corporation, or any member of the LLC or person designated to receive service of process.
- Secretary of State Service, by delivering to and leaving two copies with \_\_\_\_\_ in the Office of the Secretary of State of the State of New York, personally at the Office of the Secretary of State of the State of New York. Said service was made pursuant to article three of the Business Corporation Law. Deponent further says that s/he knew the person so served as aforesaid to be employed in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said respondent.

## C. ALTERNATE METHOD/CHARTER SERVICE (Posting at place of occurrence)

Alternate method of service pursuant to New York City Charter §1049-a(d)(2) (Affix and Mail Service). I made the following reasonable but unsuccessful attempt to effectuate service upon respondent or upon any other person whom service may be made as follows: No respondent on site - contacted site manager

A true copy of the notice of violation was posted at the following conspicuous place on the premises where the violation occurred: Posted on fence.

Additional information:

## D. DESCRIPTION OF INDIVIDUAL SERVED (Complete for A1, A2, or B1)

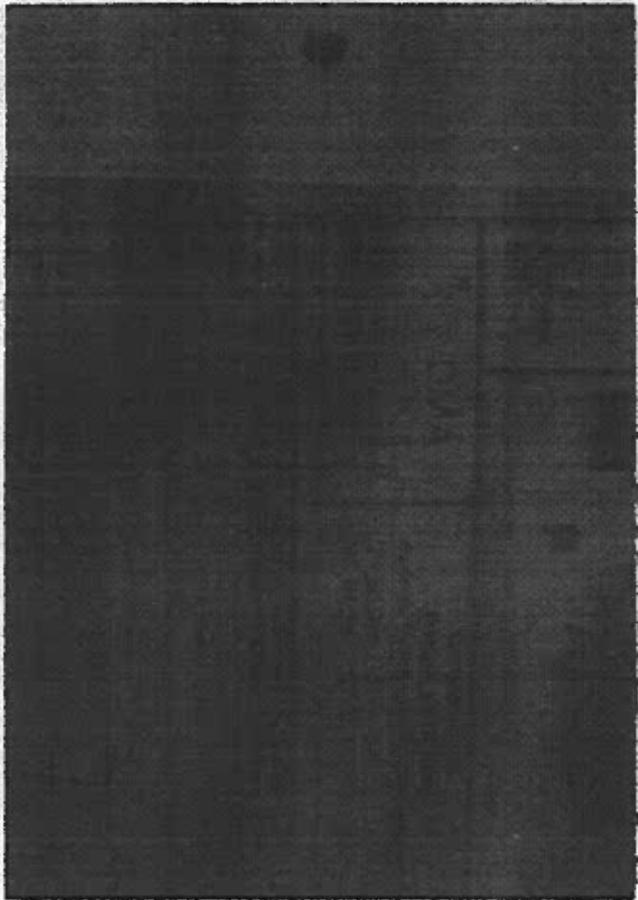
Deponent further states that s/he describes the person actually served as follows:

GENDER	SKIN COLOR	HAIR COLOR	OTHER	AGE	HEIGHT	WEIGHT
<input type="checkbox"/> Male	<input type="checkbox"/> Black	<input type="checkbox"/> Black	<input type="checkbox"/> Balding	<input type="checkbox"/> 14-20 yrs.	<input type="checkbox"/> under 5'	<input type="checkbox"/> under 100 lbs.
<input type="checkbox"/> Female	<input type="checkbox"/> Brown	<input type="checkbox"/> Blond	<input type="checkbox"/> Mustache	<input type="checkbox"/> 21-35 yrs.	<input type="checkbox"/> 5'0"-5'3"	<input type="checkbox"/> 101-130 lbs.
	<input type="checkbox"/> White	<input type="checkbox"/> Brown	<input type="checkbox"/> Beard	<input type="checkbox"/> 36-50 yrs.	<input type="checkbox"/> 5'4"-5'8"	<input type="checkbox"/> 131-160 lbs.
		<input type="checkbox"/> Gray	<input type="checkbox"/> Glasses	<input type="checkbox"/> 51-65 yrs.	<input type="checkbox"/> 5'9"-6'0"	<input type="checkbox"/> 161-200 lbs.
		<input type="checkbox"/> Red		<input type="checkbox"/> Over 65 yrs.	<input type="checkbox"/> Over 6'0"	<input type="checkbox"/> Over 200 lbs.
		<input type="checkbox"/> White				

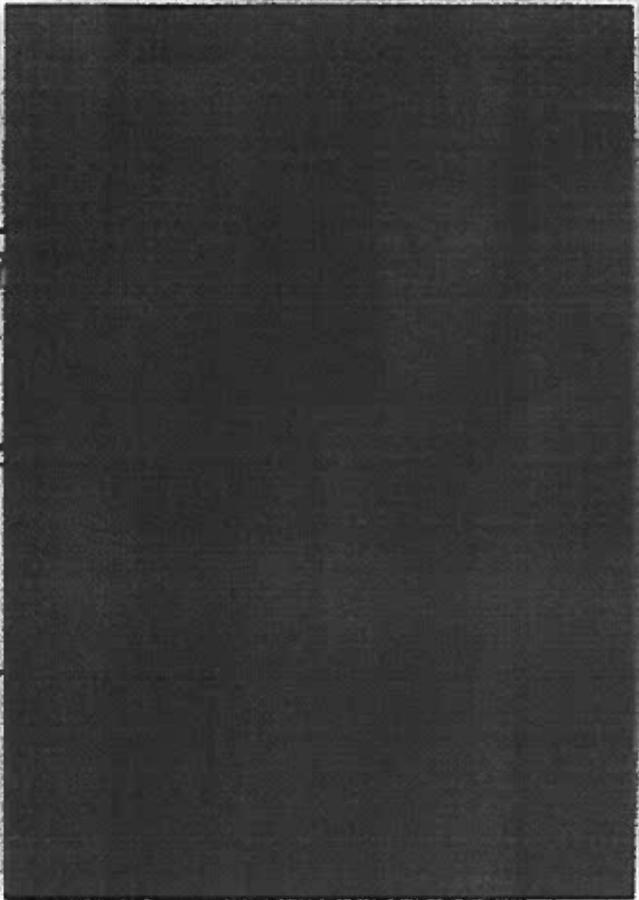
Other identifying characteristics:

Served by: Signature <u>B. Kogan</u> Print full name <u>BORIS KOGAN</u> <input checked="" type="checkbox"/> Issuing officer, City of New York This service statement is affirmed under penalty of perjury	<input type="checkbox"/> Process Server (complete next box)	For process server SWORN TO BEFORE ME ON: ____ day of _____ Notary signature _____
---	--	---

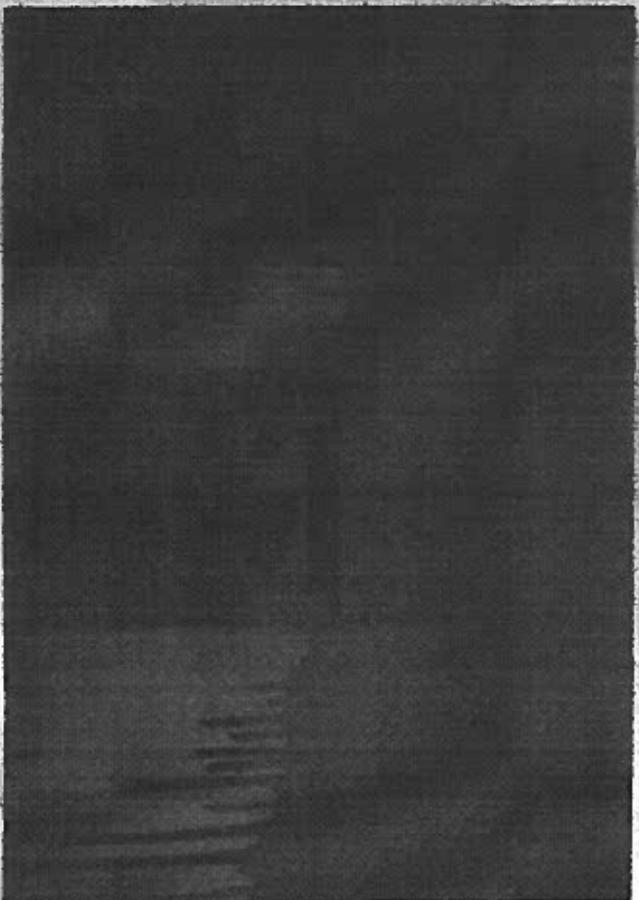
Supervisor's Signature [Signature]  
(FOR OFFICE USE ONLY)



195  
Hegefeld  
ST.



121



# NYC Buildings INTRANET

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BROOKLYN

**Public Workstation Plan Viewing**

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Premises: 155 MESEROLE STREET BROOKLYN		Number of Sheets Scanned: 102		Job No: 320729137	
BIN:3071003 Block: 3044 Lot: 35		Job Type: A1 - ALTERATION TYPE I			
PLAN NAME	FLOOR	STATE	DATE SCANNED	SCAN CODE	NOTES
Plumbing (P)-700.02			2015/08/24 17:41:21	ESHS8919573	0
Architectural (A)-102.03			2015/08/24 17:40:56	ESHS8341338	0
Architectural (A)-100.03			2015/08/14 10:24:02	ESHS1279585	0
Architectural (A)-100.02		superseded	2015/07/30 10:22:05	SC341787296	0
Plumbing (P)-700.01		superseded	2015/07/24 11:23:53	SC340369718	0
Architectural (A)-102.02		superseded	2015/07/24 11:23:43	SC341787302	0
Architectural (A)-500.01			2015/07/18 14:07:15	SC341787286	0
Energy Analysis (EN)-601.00			2015/07/18 14:09:49	SC340988504	0
Energy Analysis (EN)-602.01			2015/07/18 14:10:46	SC341787311	0
Architectural (A)-600.02			2015/07/18 14:09:33	SC341787289	0
Energy Analysis (EN)-601.01			2015/07/18 14:10:29	SC341787282	0
Architectural (A)-502.00			2015/07/18 14:09:22	SC340988498	0
Architectural (A)-300.02			2015/07/18 14:07:05	SC341787308	0
Architectural (A)-103.00			2015/07/18 14:06:11	SC341787305	0
Architectural (A)-201.01			2015/07/18 14:06:42	SC340369719	0
Architectural (A)-000.00			2015/07/18 14:04:14	SC340988514	0
Architectural (A)-101.02			2015/07/18 14:05:04	SC341787285	0
General (G)-001.00			2015/07/18 14:03:56	SC340988517	0
Zoning (Z)-003.00			2015/07/18 14:03:41	SC340988522	0
Architectural (A)-001.01			2015/07/18 14:04:32	SC340369730	0
Zoning (Z)-000.02			2015/07/18 14:01:08	SC341787293	0
Lift-Cover Sheet (L)-000.02			2015/07/18 14:00:23	SC341787290	0
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Sprinkler (SP)-001.00		superseded	2014/11/20 11:09:30	SC341419360	0
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Excavation (SOE)-100.0			2014/10/06 10:58:43	SC342067215	0
Structural (S)-600.0			2014/10/08 10:58:26	SC342067218	0
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Structural (S)-301.0			2014/09/09 09:57:38	SC342067204	0
Structural (S)-300.00			2014/09/09 09:57:10	SC342067210	0
Structural (S)-203.0			2014/09/09 09:56:39	SC342067207	0
Structural (S)-501.00			2014/09/09 09:55:59	SC342067221	0

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<u>Structural (S)-303.0</u>	2014/09/09 09:54:24	SC342067220	0
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<u>Excavation (SOE)-101.00</u>	2013/11/19 18:39:27	SC343199509	0
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<u>Zoning (Z)-000.00</u>	2013/06/17 17:44:42	SC341419365	0
<u>Title-Cover Sheet (T)-000.00</u>	2013/06/17 17:44:21	SC341419368	0
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<u>Architectural (A) -102.00</u>	2013/06/17 17:48:29	SC341480716	0
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<u>Structural (S) -501.00</u>	2013/06/17 17:58:58	SC340988503	0
<u>General (G) -000.0</u>	2013/04/19 16:41:12	SC121010006	0



**Buildings**

NYC Buildings Department  
280 Broadway New York, NY 10007

Rick D. Chandler, PE, Commissioner



**BUILDINGS BULLETIN 2015-017**  
Technical

**Supersedes:** TPN 10/1987

**Issuer:** Thomas Fanebo, R.A.  
First Deputy Commissioner

**Issuance Date:** June 30, 2015

**Purpose:** To clarify code requirements for lot line openings

<b>Related</b>	BC Table 704.8 (2008 Code)	AC 28-103.3	BC 715
<b>Code/Zoning</b>	BC Table 705.8 (2014 Code)	AC 28-103.8	BB 2008-007
<b>Section(s):</b>	Table 3-4 (1968 Code)	AC 27-331	BB 2015-008

**Subject(s):** [redacted] lot line, Exterior opening, Fire separation distance, Openings, exterior wall, Exterior wall, fire-resistance-rated, [redacted] Glazing, fire-protection-rated, Openings, water curtain, Opening protectives, tax lot line, Opening protectives, zoning lot line

This bulletin is to clarify code requirements for lot line openings

**I. Distance from a lot line.** BC Table 705.8 (BC Table 704.8 of the 08 Code and Table 3-4 and 27-331 of the 68 Code) limits the amount of exterior openings based on "fire separation distance" ("exterior separation" in the 1968 Code). Both terms are defined and are measured perpendicularly from the face of the exterior wall to the tax lot line (interior lot line in the 68 Code). The application of these provisions in a lot line condition will determine whether exterior openings are permitted, and if so, the maximum area of such permitted openings, and also whether such permitted openings must be protected.

**II. Glazed exterior walls as rated assemblies.** Glazed areas that are fixed closed, labeled as fire-resistance-rated glazing and tested as part of a fire-resistance-rated wall assembly in accordance with ASTM E119 as required for exterior walls for a lot line condition, in accordance with section BC 704.5 (BC 704.5 of the 08 Code) (typically one hour, per BC Table 602), are not considered "openings," and are therefore permitted as-of-right to an unlimited extent. However, any other glazed areas not meeting the conditions above, whether windows or fixed glazing, and even if protected per section BC 715.5 in accordance with NFPA 257 or UL 9 as fire windows, by fire shutters or by sprinklers, are considered "openings," and are therefore subject to the limitations of BC Table 705.8 (BC Table 704.8 of the 08 Code or Table 3-4 and 27-331 of the 68 Code), and as set forth in the bulletin.

**III. Lot line condition for other than R-2 and R-3.** For other than Group R-2 and R-3 occupancies, as-of-right openings are not permitted for lot line conditions per BC Table 705.8 (BC Table 704.8 of the 08 Code or Table 3-4 and 27-331 of the 68 Code).

**A. Windows subject to the 10% opening limitations for R-2 and R-3 occupancies.** In cases where buildings are located on the same zoning lot but on different tax lots, windows that are located at tax lot lines (internal to the zoning lot) and therefore are subject to the 10% opening limitations per Part IV, are permitted to satisfy required natural light and ventilation (see Illustration 3), and may be approved by the borough examiner, where:

1. the openings open onto open areas that meet the dimensional and area requirements of yards or courts as specified in the Zoning Resolution, located on the same zoning lot;
2. the openings are provided with the minimum perpendicular distances, as may be required by the Zoning Resolution, located on the same zoning lot;
3. a light and air easement is recorded against the adjacent tax lot(s) in accordance with Buildings Bulletin 2015-005 or its successor bulletin, and the Schedule A/Certificate of Occupancy for the subject building recites the CRFN number for the easement that is recorded against the adjacent lot(s); and
4. the openings shall be opening protectives pursuant to section BC 715 (27-331 of the 1968 Code) or [REDACTED]

[REDACTED] installed in accordance with NFPA 13 as modified in Appendix Q (per section BC 705.8.2 of the 2014 Code or BC 704.12 of the 08 Code Exception); in accordance with section BC 705.6.2, openings that are fire window assemblies shall comply with section BC 715 as fire-protection rated glazing. Where operable fire window assemblies are provided, the fire-protection rated glazing within the fire window assemblies must be automatic-closing per section BC 715.5.6.

5. For any portions of an exterior wall meeting the conditions in Part V above, the borough commissioner may approve the remaining 90% of such portions of the exterior wall with unlimited openings provided they are not used to satisfy natural light or ventilation requirements (see Illustration 4). The unlimited openings within such portions of the exterior wall meeting the conditions in Part V above need not be protected.

**B. Practical Difficulty for Group R-2 and R-3 occupancies.** In cases where buildings are located on the same zoning lot but on different tax lots, where the applicant demonstrates a practical difficulty in providing required light and ventilation for habitable rooms in an R-2 or R-3 occupancy located along a tax lot line (internal to the zoning lot) within the 10% tabular limitation of Part IV, the borough commissioner may authorize openings in excess of these limitations upon a finding of equally safe alternative, as per section AC 28-103.3. The borough commissioner shall be guided by the following, as may be appropriate to the specific case (see Illustration 5):

1. **Windows less than 30 feet above roofs of buildings on same zoning lot.** Where windows open above the roofs of buildings on the same zoning lot, and such windows are less than 30 feet, measured vertically, to the highest roof, rooftop equipment or bulkhead, the maximum allowable openings shall not be increased and shall remain subject to the 10% limitation.
2. **Windows 30 feet or more above roofs of buildings on the same zoning lot.** Where windows open above the roofs of buildings on the same zoning lot, and such windows are 30 feet or more, measured vertically, to the highest roof, rooftop equipment or bulkhead, the maximum allowable openings may be authorized to exceed the 10% tabular area subject to the guiding limitations and conditions, below:

**IV. Lot line condition for R-2 and R-3.** In accordance with Table BC 705.8 footnote k (BC Table 704.8 of the 08 Code footnote j or Table 3-4, footnote a, of the 68 Code), as-of-right openings on the tax lot line are permitted in Group R-2 and R-3 occupancies, provided they do not exceed 10% of the area of the façade of the story in which they are located\* (see Illustration 1). Such openings are required to be (i) opening protectives pursuant to section BC 715 (27-331 of the 1968 Code), or (ii) in cases where the subject Group R-2 or R-3 building is fully sprinklered, protected by an approved water curtain using automatic sprinklers approved for that use and installed in accordance with NFPA 13 as modified in Appendix Q (per section BC 705.8.2 of the 2014 Code or BC 704.12 of the 08 Code, Exception).

Such openings cannot be used to satisfy required natural light or ventilation except in accordance with Part VIIA).

In accordance with section BC 705.8.2, openings that are fire window assemblies shall comply with section BC 715 as fire-protection rated glazing. Where operable fire window assemblies are provided, the fire-protection rated glazing within the fire window assemblies must be automatic-closing per section BC 715.5.6.

**V. 60 feet or more between openings and neighboring building.** BC Table 705.8 footnote m (BC Table 704.8, footnote l or Table 3-4, footnote b, of the 68 Code) provides an exception to the requirements in Parts III and IV above, for openings that are sufficiently far away from neighboring buildings that are in front of such openings (see Illustration 2). For any portion of an exterior wall that is at least 60 feet away from neighboring building, measured in any direction and any angle to the nearest portion of such neighboring building (including rooftop equipment, bulkheads, etc.), the borough examiner may approve such portion of the exterior wall with unlimited openings, and such openings need not be protected, subject to the following:

- A. The owner shall file a lot line window restrictive declaration against the tax lot in accordance with Buildings Bulletin 2015-008 or its successor bulletin, requiring that the owner shall immediately close such openings if any neighboring building is later altered or constructed to come within the 60 foot distance limitation. The Schedule A/Certificate of Occupancy for the subject building shall recite the CRFN number for the declaration recorded against its lot.
- B. The construction documents shall include information regarding the obligations imposed by the restrictive declaration.
- C. The structural and mechanical plans shall demonstrate that they have the capacity to accommodate human occupancy and additional loads, presuming that the exterior wall enclosures are in place.
- D. Openings above the top of any chimney within the distances specified in section BC 2113.9 (Section 27-859 of the 1968 Code) shall be fixed.

**VI. Windows providing required natural light or ventilation on zoning lots with multiple tax lots.** In accordance with Section 30 of the Multiple Dwelling Law, windows providing natural light or ventilation that do not open to a street must open directly "upon a lawful yard, court or space above a setback upon the same lot as that occupied by the multiple dwelling in which such room is situated." The term "same lot" in this context is interpreted to be the zoning lot, even where the zoning lot is comprised of multiple tax lots. However, with respect to analyzing applicable fire safety requirements for opening protectives, the Building Code measures the fire separation distances (exterior separations) to the tax lot line(s).

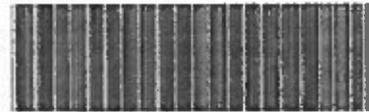
\* However, beyond 60 feet from adjoining buildings, unlimited, unprotected openings may be permitted where approved by the borough examiner in accordance with Part V of this bulletin.





THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD

HEARING LOCATION:  
Environmental Control Board  
9 Bond Street  
7th Floor  
Brooklyn, NY 11201  
(844) 628-4692



1311104115024728E69

Method of Appearance  
Live Hearing

DECISION AND ORDER  
Violation #: 035116240L (1 NOV)  
Hearing Date: September 21, 2015

To David Winkler  
134 Broadway  
Suite 45  
Brooklyn, NY 11249

City of New York v. SAM POLATSEK

Total Civil Penalty: \$1,000.00

1 Notice(s) of Violation (NOV(s)) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Fact/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance.

NOV 035116240L		
PLACE OF OCCURRENCE: 155 MESEROLE STREET BROOKLYN		
DATE OF OCCURRENCE: 05/27/2015		
ISSUING OFFICER/AGENCY: 2188 DOB		
ECB CODE: B182		
CHARGE: 28-105.12.2		
DISPOSITION: IN VIOLATION	CIVIL PENALTY IMPOSED	\$1,000.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW

NOV 035116240L 28-105.12.2

The ticket is sustained and Sam Polatsek must pay a fine.

Mr. David Winkler appeared and said that he is the authorized representative of Mr. Polatsek. Vivian Currie, Esq. appeared for the Department of Buildings (Department). The Notice of Violation ("ticket") said that work did not conform to approved construction documents. It specified that the plans showed that the lot line windows must be a single sheet of fire rated glass but that the windows as installed were double hung ordinary glass. The ticket said that this was a Class 1 violation.

Mr. Currie presented a series of four photographs taken by the officer at the time of his inspection (Exhibit 1). He also presented a set of plans showing the conditions in question (Exhibit 2). Mr. Currie added that the ticket referred to this as a Class 1 violation because of the potential fire safety problem arising from the lack of fire rated glass in this six story building.

Mr. Winkler said that fire rated windows are unnecessary if there are sprinkler heads near the lot line windows. In support of this assertion, he presented a copy of the Department's Building Bulletin 2015-017 dated June 30, 2015 (Exhibit A). He pointed to a page that said in part that buildings are "permitted to satisfy required natural light and ventilation and may be approved by the borough examiner, where 4 in cases where the subject R-2 or R-3 building is fully sprinklered, the openings are protected by an approved water curtain using automatic sprinklers approved for that use and installed in accordance with NFPA 13 as modified in Appendix Q." Mr. Currie noted that the issuance date of this Bulletin (June 30, 2015) was after the date the ticket was issued (May 27, 2015). He also said that this Bulletin did not support Mr. Winkler's assertion. I am not persuaded that the Bulletin proves that the fire rated windows are unnecessary because of the presence of nearby sprinkler heads. It only says that plans may be approved by the borough examiner on that basis in certain instances that are enumerated there and no demonstration was made that these conditions apply here. In any event, the Bulletin postdates the ticket and the existence or nonexistence of the violating condition is as of the date the ticket was issued.

Mr. Winkler then said that Mr. Polatsek's plans were amended and he presented both the original set of plans (same as Exhibit 2) and an amended set of plans (collectively, Exhibit B). The amended plans do show that the requirement of fire rated windows was dropped but these plans are dated August 17, 2015, which is after the date of the ticket. Mr. Currie said that this amendment to the plans does not appear on the Department's record of plans for the property (Exhibit 3). Mr. Winkler said that the fact that the amended plans were approved without the requirement of fire rated windows means that the absence of fire rated windows noted in the ticket was, at most, a Class 2 violation and not a Class 1 violation, as set forth in the ticket. Mr. Currie said that the amended plans show other changes that would also need to be taken into account. He noted that the electric powered heating and cooling units that, in the original plans were located near the windows had been moved away from the windows in the amended plans. He said that their presence near the windows in the original plans made the potential fire hazard worse due to the failure to have fire rated windows when the property was actually built.

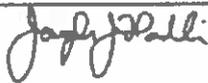
I credit the testimony and evidence presented by the Department and such evidence presented by Mr. Polatsek that is the product of the New York City Environmental Control Board.

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Department's website. The issue is not whether the condition was subsequently corrected but solely one of whether there was a violating condition as of the date the ticket was written and I find that based on the credible evidence, there was such a violating condition.

A Class I violation is an immediately hazardous violation which are violations specified as such by the City Construction Codes or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action. The conditions described in the ticket constitute such a Class I violation because of the potential fire problems.

The ticket is sustained and the Board approved penalty is imposed.

<b>TOTAL CIVIL PENALTY: \$1,000.00</b>	
	10/01/2015
<small>Thu Oct 2015 10:01:15 13:29:05</small>	
Joseph Handlin, Hearing Officer	Date

**PAYMENT DUE WITHIN TEN (10) DAYS  
READ BACK OF THIS ORDER - PROTECT YOUR RIGHTS**

online appeal

10/29/15

Bllyn

Pif

revel

Job

### ECB APPEAL APPLICATION

Use this form for your appeal. Please read the instructions carefully.  
When you have completed the application, click the correct button at the end of the form to finalize the e-form.  
When prompted either:

- Choose to have the e-form automatically attached to an email and send it using your Microsoft Outlook or computer's Mail program; or
- Choose to save the e-form, then attach it to an email and send the form to both email addresses listed in the pop-up message.

Please note that Google Chrome and Mozilla Firefox internet browsers currently do not support this type of form. If you opened the form using Google Chrome or Mozilla Firefox, either access the form using another internet browser, such as Internet Explorer, or follow these directions to open the form when using Google Chrome or Mozilla Firefox.

Date

VIOLATION NUMBER(S)

#### INFORMATION ABOUT YOU:

Last Name  Address   
 First Name  City  State  Zip Code   
 Initial  Phone Number   
 E-mail

#### REPRESENTATIVE INFORMATION (if Applicable):

Last Name  Business Address   
 First Name  City  State  Zip Code   
 Initial  Phone Number   
 E-mail

#### STEPS YOU HAVE TO TAKE TO HAVE ECB DECIDE YOUR APPEAL

1) Will the appeal be received within 30 days of the mailing date on the hearing decision?   
 Your appeal will be rejected unless it is received no more than 30 days after the mailing date of the decision.  
 This date is below the hearing officer's signature on the front of your hearing decision.

2) Have you paid?   
 Payment must be made within 20 days of the mailing date of the decision. Payment means you either:  
 paid the penalty, posted a bond or were granted a waiver.

- I am requesting a waiver of payment of the penalty because it will be a hardship to pay while my appeal is being decided.   
 If you are requesting a waiver, you must fill out the Financial Hardship Application available on the ECB website at [www.nyc.gov/oath](http://www.nyc.gov/oath).

157-1129

3) **This is why the decision is wrong.**

*You may only rely on facts or evidence or arguments that were used at the hearing. ECB will not use new facts and arguments to decide your appeal. You have to show that the hearing decision was based either on facts that were incorrect or an error in applying the law, or both.*

I'm appealing the decision because i believe that the ALJ erred in his decision, first i would like to clarify the following: the hearing date was September 21 the printed date of the decision is October 1, but stamped date is in error stamped September 2, the DOB rep in his starting statement explained "that the class 1 is because the potential fire safety problem arising from the lack of rated glass in this six story building" in general talking: a class 1 is a immediate hazardous violation, this building was still under construction and couldn't even be occupied without a new c of o if so i'm asking why is this a immediate hazardous? at the hearing i further argued that this violation doesn't warrant a class 1 violation because on the approved plans dated June 27, 2014 (submitted at the hearing) on the proposed plans for floors 3 to 6 and floor 2 it shows proposed sprinkler heads to be installed at lot line windows, being so the law don't require to install single sheet and fire rated windows, to prove my argument i have submitted amended plans that was approved and signed Aug 17, 2015 where the required fire rated & single sheet widows was dropped because the proposed sprinkler heads. i further testified that as per site manager the issuing inspector itself agreed that the law don't require fire rated & single sheet windows when installing sprinkler heads, but because the work is not conforming to approved plans he issued the violation, on my side i did research and submitted some documents that may give some light, the DOB rep tried to discredit my evidence, but regardless if i found the correct literature the law still don't change. the DOB rep in his rebut claimed "that the plans does not appear on departments record", but i would say regardless the reason why its not showing in the departments records, that doesn't make plans illegitimate or false, neither did he submit any proof to the contrary, In fact the plans were signed, stamped and approved by the DOB as usual. (also to mention that the DOB approved a certificate of correction for this violation based on this amendments) he further rebutted my argument by claiming "that the amended plans shows other changes that would also need to be taken into account he noted that electric powered heating and cooling units that in the original plans were located near the windows had been moved away from the windows in the amended plans. he said that their presence near the windows in the original plans made the fire potential worse due to the failure to have fire rated windows when the property was actually built". In other words is the rep claiming that because the presence of the electric power heating and cooling units you are still required to install single sheet & fire rated windows even with the proposed fire sprinkler heads, but he didn't backup his claim with any credible proof neither did he mentioned any reference of law supporting his statement, all his arguments were merely assumptions and speculating. moreover, the respondent was not served with due-process in this case, the fact that the Nov didn't reference the section of law for the required fire rated & single sheet windows deprived the respondent from his rights to defend himself, because he didn't know what arguments to use and witch evidence to submit in order to proof that he didn't violate the law because we don't

I affirm that I am authorized to complete and submit this application.

By clicking a button below, I understand that I am signing and filing this application with ECB and the City agency. This has the same effect as signing by hand.

<b>FIRE CODE CASES (including fireworks)</b>	<b>BUILDING CASES</b>
<b>LANDMARKS CASES</b>	<b>GENERAL VENDOR CASES</b>
<b>PARKS CASES</b>	<b>TRANSPORTATION &amp; NEWSRAK CASES</b>
<b>AIR, NOISE, WATER CASES</b>	<b>FOOD VENDOR, SRD &amp; HEALTH CODE CASES</b>
<b>RTK, HAZMAT &amp; SEWER CASES</b>	<b>PUBLIC PAY TELEPHONE CASES</b>
<b>MARKET CASES</b>	<b>SANITATION &amp; RECYCLING CASES</b>
<b>POSTING &amp; ABANDONED VEHICLE CASES</b>	

**CITY AGENCIES ONLY: Attach proof of service on respondent.**

## Davis, Norris (OATH)

---

**From:** David Winkler <david@hatzluchaexpediting.com>  
**Sent:** Wednesday, October 28, 2015 12:40 PM  
**To:** ECB Appeal Application (OATH); DOB-ECBVioAppeals (Buildings)  
**Cc:** david@hatzluchaexpediting.com  
**Subject:** ECB Appeal Application  
**Attachments:** AppealWebForm.xml

The attached file contains data that was entered into a form. It is not the form itself.

The recipient of this data file should save it locally with a unique name.

Adobe Acrobat Professional 7 or later can process this data by importing it back into the blank form or creating a spreadsheet from several data files.

See Help in Adobe Acrobat Professional 7 or later for more details.

<?xml version="1.0" encoding="UTF-8"?>

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- <AppealAppP1>

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 <FirstName>DAVID</FirstName>  
 <Initial/>  
 <email>DAVID@HATZLUCHAEXPEDITING.COM</email>  
 <Address>134 BROADWAY #45</Address>  
 <City>BROOKLYN</City>  
 <State>NY</State>  
 <ZipCode>11249</ZipCode>  
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</AppealAppP1>

- <AppealAppP2>

<Q3>I'm appealing the decision because i believe that the ALJ erred in his decision, first i would like to clarify the following; the hearing date was September 21 the printed date of the decision is October 1, but stamped date is in error stamped September 2, the DOB rep in his starting statement explained "that the class 1 is because the potential fire safety problem arising from the lack of rated glass in this six story building" in general talking; a class 1 is a immediate hazardous violation, this building was still under construction and couldn't even be occupied without a new c of o if so I'm asking why is this a immediate hazardous ? at the hearing i further argued that this violation doesn't warrant a class 1 violation because on the approved plans dated June 27, 2014 (submitted at the hearing) on the proposed plans for floors 3 to 6 and floor 2 it shows proposed sprinkler heads to be installed at lot line windows, being so the law don't require to install single sheet and fire rated windows, to prove my argument i have submitted amended plans that was approved and signed Aug 17, 2015 where the required fire rated & single sheet widows was dropped because the proposed sprinkler heads. i further testified that as per site manager the issuing inspector itself agreed that the law don't require fire rated & single sheet windows when installing sprinkler heads, but because the work is not conforming to approved plans he issued the violation. on my side i did research and submitted some documents that may give some light, the DOB rep tried to discredit my evidence, but regardless if i found the correct literature the law still don't change. the DOB rep in his rebut claimed "that the plans does not appear on departments record", but i would say regardless the reason why its not showing in the departments records, that doesn't make plans illegitimate or false, neither did he submit any proof to the contrary.

10/28/15 ✓

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<RadioButtonList>I affirm that I am authorized to complete and submit this application.

</RadioButtonList>

</AppealAppP2>

</form1>



Rick Chandler, P.E.  
Commissioner

Michael Burns  
Director ECB Legal Matters  
Administrative  
Enforcement Unit  
[mburns@buildings.nyc.gov](mailto:mburns@buildings.nyc.gov)

AEU-5<sup>th</sup> Floor  
280 Broadway  
New York, NY 10007  
[www.nyc.gov/buildings](http://www.nyc.gov/buildings)

+1 212 393-2276tel  
+1 212 566-3015fax

November 17, 2015

Thomas Southwick, Chief Judge  
ECB Appeals Board  
66 John Street, 10<sup>th</sup> Floor  
New York, NY 10038

**PETITIONER'S RESPONSE  
TO RESPONDENT'S APPEAL**

**NOV 351-162-40 L**

Violations: **NOV 351-162-40 L**

Location: **155 Meserole Street, Brooklyn**

Respondent: **Sam Polatsek**

Dear ECB Appeals Board,

Petitioner submits this response to Respondent's appeal of the decision on Notice of Violation<sup>1</sup> ("NOV") 351-162-40L referenced above. This response is timely per ECB Rule Section 3-71 (b) as it is filed within 20 days, plus five mailing days of receipt of the respondent's appeal on October 28, 2015.<sup>2</sup> Respondent's appeal is without merit.

Respondent is charged with a Class 1, AC. 28-105.12.2 violation for work not according to approved plans in that the approved plans at the building under construction called for fire-rated single sheet glass at the lot line windows, but the inspection found double hung ordinary glass installed instead. The incorrect non-fire rated glass was found on floors two through six.

Respondent did not deny the facts as the inspector observed and noted, but claimed that an amended job plan allowing for the ordinary glass at the lot line windows was approved, albeit some weeks after the NOV was issued after the first hearing date of July 13, 2015. Respondent asserts that because the condition cited in the NOV was corrected, the class 1 designation of the violation is incorrect. Respondent is in error.

<sup>1</sup> A copy of the violations is attached.

<sup>2</sup> A copy of the first page of respondent's appeal received October 28, 2015 is attached.

20-11-15 PM03:47

15/11/15



Respondent's defense is that because the condition was corrected, it must not be a Class 1 violation, but a Class 2 violation. However, as pointed out at hearing by the petitioner at the hearing, there was more amended on the plans than just the glass in the windows. Correction of violating conditions is not a defense to a violation. Respondent admitted the condition and corrected. The Class 1 designation of the violation is appropriate and the only challenge to that Class 1 designation by respondent is the fact of an amendment to the plans. Lot line windows that are not called to be fire-rated are a safety feature to prevent the spread of fire into the building. That this serious safety feature was presumably solved by a different arrangement of elements, which included moving the heating and cooling units away from the windows, is unchallenged by the respondent.

#### CONCLUSION

The decision of the ECB hearing officer should be affirmed and the Board Approved penalty sustained. Respondent has failed to rebut the NOV and has failed to explain how the decision is contrary to the code or ECB precedent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Burns", written over a horizontal line.

Michael Burns  
AEU  
Buildings Department

**ECB/OATH Appeals**  
66 John Street, 10<sup>th</sup> floor  
New York, NY 10038

**Sam Polatsek**  
155 Meserole Street  
Brooklyn, NY 11249

**David Winkler**  
134 Broadway, #45  
Brooklyn, NY 11249

[TSouthwick@oath.nyc.gov](mailto:TSouthwick@oath.nyc.gov)

[DAVID@HATZLUCHAEXPEDITING.COM](mailto:DAVID@HATZLUCHAEXPEDITING.COM)



THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD

HEARING LOCATION:  
Environmental Control Board  
9 Bond Street  
7th Floor  
Brooklyn, NY 11201  
(844) 628-4692



1311104115024728E69

Method of Appearance  
Live Hearing

DECISION AND ORDER  
Violation #: 035116240L (1 NOV)  
Hearing Date: September 21, 2015

To: David Winkler  
134 Broadway  
Suite 45  
Brooklyn, NY 11249

City of New York v. SAM POLATSEK

Total Civil Penalty: \$1,000.00

I Notice(s) of Violation (NOV(s)) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Fact/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance.

NOV 035116240L		
PLACE OF OCCURRENCE 155 MESEROLE STREET BROOKLYN		
DATE OF OCCURRENCE 05/27/2015		
ISSUING OFFICER/AGENCY 2188 DOB		
FCB CODE B1E2		
CHARGE 28- 105.12.2		
DISPOSITION IN VIOLATION	CIVIL PENALTY IMPOSED	\$1,000.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV 035116240L 28- 105.12.2

The ticket is sustained and Sam Polatsek must pay a fine

Mr. David Winkler appeared and said that he is the authorized representative of Mr. Polatsek. Vivian Currie, Esq. appeared for the Department of Buildings (Department). The Notice of Violation ("ticket") said that work did not conform to approved construction documents. It specified that the plans showed that the lot line windows must be a single sheet of fire rated glass but that the windows as installed were double hung ordinary glass. The ticket said that this was a Class 1 violation.

Mr. Currie presented a series of four photographs taken by the officer at the time of his inspection (Exhibit 1). He also presented a set of plans showing the conditions in question (Exhibit 2). Mr. Currie added that the ticket referred to this as a Class 1 violation because of the potential fire safety problem arising from the lack of fire rated glass in this six story building.

Mr. Winkler said that fire rated windows are unnecessary if there are sprinkler heads near the lot line windows. In support of this assertion, he presented a copy of the Department's Building Bulletin 2015-017 dated June 30, 2015 (Exhibit A). He pointed to a page that said in part that buildings are "permitted to satisfy required natural light and ventilation... and may be approved by the borough examiner, where 4... in cases where the subject R-2 or R-3 building is fully sprinklered, the openings are protected by an approved water curtain using automatic sprinklers approved for that use and installed in accordance with NFPA 13 as modified in Appendix Q." Mr. Currie noted that the issuance date of this Bulletin (June 30, 2015) was after the date the ticket was issued (May 27, 2015). He also said that this Bulletin did not support Mr. Winkler's assertion. I am not persuaded that the Bulletin proves that the fire rated windows are unnecessary because of the presence of nearby sprinkler heads. It only says that plans may be approved by the borough examiner on that basis in certain instances that are enumerated there and no demonstration was made that these conditions apply here. In any event, the Bulletin postdates the ticket and the existence or nonexistence of the violating condition is as of the date the ticket was issued.

Mr. Winkler then said that Mr. Polatsek's plans were amended and he presented both the original set of plans (same as Exhibit 2) and an amended set of plans (collectively, Exhibit B). The amended plans do show that the requirement of fire rated windows was dropped but these plans are dated August 17, 2015, which is after the date of the ticket. Mr. Currie said that this amendment to the plans does not appear on the Department's record of plans for the property (Exhibit 3). Mr. Winkler said that the fact that the amended plans were approved without the requirement of fire rated windows means that the absence of fire rated windows noted in the ticket was, at most, a Class 2 violation and not a Class 1 violation, as set forth in the ticket. Mr. Currie said that the amended plans show other changes that would also need to be taken into account. He noted that the electric powered heating and cooling units that, in the original plans were located near the windows had been moved away from the windows in the amended plans. He said that their presence near the windows in the original plans made the potential fire hazard worse due to the failure to have fire rated windows when the property was actually built.

I credit the testimony and evidence presented by the Department and such evidence presented by Mr. Polatsek that is the product of the New York City Environmental Control Board.

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Department's website. The issue is not whether the condition was subsequently corrected but solely one of whether there was a violating condition as of the date the ticket was written and I find that based on the credible evidence, there was such a violating condition.

A Class 1 violation is an immediately hazardous violation which are violations specified as such by the City Construction Codes or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action. The conditions described in the ticket constitute such a Class 1 violation because of the potential fire problems.

The ticket is sustained and the Board approved penalty is imposed.

<b>TOTAL CIVIL PENALTY: \$1,000.00</b>	
	
<small>THE OCT 27 10 07 AM 13 31 03</small>	10/01/2015
Joseph Handlin, Hearing Officer	Date

**PAYMENT DUE WITHIN TEN (10) DAYS  
READ BACK OF THIS ORDER - PROTECT YOUR RIGHTS**



NOTICE OF VIOLATION AND HEARING



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

Violation No. 35116240L ENVIRONMENTAL CONTROL BOARD

Respondent: Sdu, Polatsek. Address: 155 Meserole St, BK. License No. GC-602861. Construction Activity.

Commissioner's Order To Correct Violations

Place of occurrence: 155 Meserole St, BK. Date of violation: 05/27/15. Type: C. Code: 01 KB 01. Construction type: 4. No. of stories: 6. Block: 3044. Lot: 35. Occupancy at time of inspection: Const. site. Name of violation: Chief Special.

Based on an inspection of the premises and/or records of the Department, the undersigned has determined that you are in violation of the section of law cited below, of Title 21 or Title 26 of the NYC Administrative Code, the NYC Construction Code, the NYC Electrical Code, the NYC Zoning Resolution, the Reference Standards and/or Title 1 or 2 of the Rules of the City of New York.

Violating Conditions Observed. Stop Work Order: Full. Class 1: X. Class 2: [ ]. Class 3: [ ]. Recurring Condition: [ ].

Work does not conform to approved construction documents. Work in progress under valid permit # 320729137-AL1. Noted: the plans-dwg. # A-101.02 indicate that windows on the lot line (exp 4) at 2nd through 6th floors should be one single sheet of fire rated glass. Observed: all windows are installed and they are double hung (proline) - ordinary glass.

Remedy: Conform to approved plans or amendments.

Illegal Conversion - Class 1. Per 26-202.1 & 1RCNY 102-01, additional daily penalties for continued violation of 26-210.1 or 26-210.3 also applicable. Per 26-202.1 & 1RCNY 102-01, additional "Class 1" daily or "Class 2" monthly penalty also applicable. Aggravated if Condition per 1RCNY 102-01(f).

The Commissioner orders that you timely correct these conditions and file a certificate of such correction. Uncorrected violations are subject to additional violations and penalties. IMPORTANT: See "Certifying Correction" on reverse.

Important Information: As detailed in §§ 26-301.4 and Section 102-01 of Subchapter B of Title 1 of the Rules of the City of New York, violations may be subject to aggregated penalties of the first order, which shall be imposed in accordance with the ECB Buildings Penalty Schedule.

Resolution options

CURE DATE: 7/1. HEARING DATE: 07/13/15 at 8:30 AM [ ] 10:30 AM [X] 1:30 PM [ ]

If a date appears in the box above, you may have the option to admit the violation and certify correction by the "cure date." By doing so, you avoid a hearing before the Environmental Control Board and any penalties which would be assessed at the hearing. Note: Depending on the violation, additional DOB civil penalties (separate from ECB penalties) may apply before a cure can be granted. For more information regarding "cures", see reverse side of the respondent copy of this Notice of Violation.

The hearing date above is mandatory if you are either charged with a Class 1 violation, or the violation is marked as an Aggravated if condition, or if no "cure date" is given on this Notice of Violation. Also, the above hearing date is mandatory for all other types of charges if a certificate of correction (for a cure) is not received by the date indicated to the left, or is not approved by the Department, or if you are offered but have not timely accepted a pre-hearing stipulation or admit the violation. Refer to the DOB ECB Penalty Schedule at www.ecb.nyc.gov/penalties or check the status on BLS query on the website. YOU MUST ATTEND THE HEARING IF YOU WISH TO CONTEST THE VIOLATION.

- Environmental Control Board hearing locations: Queens (718) 298-7300 - 144-06 94th Avenue, 1st fl. Manhattan (212) 381-1400 - 88 John Street, 10th fl. Brooklyn (718) 923-6100 - 9 Bond Street, 7th fl. Bronx (718) 983-6110 - 3330 3rd Ave., 2nd fl. Staten Island (718) 615-8385 - 330 St. Marks Place, 1st fl.

Proceedings will be held under the authority of the NYC Charter section 104b-a and the rules promulgated thereunder. This hearing is your opportunity to answer and defend against the allegations set forth above. Failure to appear, unless you admit the violation or an appearance is not required through availability of a Cure or Stipulation (see reverse) will result in a default and imposition of maximum penalties.

For more information. To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call Department of Buildings at 311, or visit the ECB Violation section at www.ecb.nyc.gov/buildings.

Issuing officer's last name, first initial (print): KOGAN, B. Badge number: 2115181. Unit Code: 31C.

I personally observed the violation(s) charged and/or verified their existence through review of departmental records. Issuing officer's signature: B. Kogan. This statement is affirmed under penalty of perjury.

35116240L

<?xml version="1.0" encoding="UTF-8"?>

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- <AppealAppP1>

<ViolationNumber>35116240L</ViolationNumber>  
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 <Initial/>  
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 <Address>134 BROADWAY #45</Address>  
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</AppealAppP1>

- <AppealAppP2>

<Q3>I'm appealing the decision because i believe that the ALJ erred in his decision, first i would like to clarify the following; the hearing date was September 21 the printed date of the decision is October 1, but stamped date is in error stamped September 2, the DOB rep in his starting statement explained "that the class 1 is because the potential fire safety problem arising from the lack of rated glass in this six story building" in general talking; a class 1 is a immediate hazardous violation, this building was still under construction and couldn't even be occupied without a new c of o if so I'm asking why is this a immediate hazardous ? at the hearing i further argued that this violation doesn't warrant a class 1 violation because on the approved plans dated June 27, 2014 (submitted at the hearing) on the proposed plans for floors 3 to 6 and floor 2 it shows proposed sprinkler heads to be installed at lot line windows, being so the law don't require to install single sheet and fire rated windows, to prove my argument i have submitted amended plans that was approved and signed Aug 17, 2015 where the required fire rated & single sheet widows was dropped because the proposed sprinkler heads. i further testified that as per site manager the issuing inspector itself agreed that the law don't require fire rated & single sheet windows when installing sprinkler heads, but because the work is not conforming to approved plans he issued the violation, on my side i did research and submitted some documents that may give some light, the DOB rep tried to discredit my evidence, but regardless if i found the correct literature the law still don't change. the DOB rep in his rebut claimed "that the plans does not appear on departments record", but i would say regardless the reason why its not showing in the departments records, that doesn't make plans illegitimate or false, neither did he submit any proof to the contrary,

Rec'd

10/28

Rec'd  
11/17

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<RadioButtonList>I affirm that I am authorized to complete and submit this application.

</RadioButtonList>

</AppealAppP2>

</form1>

CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD

-----X  
Commissioner, New York City  
Department of Buildings

Petitioner-Appellee,

v.

Sam Polatsek,

Respondent-Appellant.

-----X

**AFFIRMATION OF SERVICE**

**PETITIONER'S RESPONSE TO  
RESPONDENT'S APPEAL**

**NOV 351-162-40 L**

STATE OF NEW YORK )  
CITY OF NEW YORK ) SS.:

Michael Burns, an attorney duly admitted in the State of New York hereby affirms:  
On November 17, 2015, I served the annexed Petitioner's Response to Respondent's Appeal of the decisions on NOV referenced above: NOV 351-162-40L on the following hereafter named by email and mail and by depositing true copies thereof, contained in securely sealed, postpaid wrappers, properly addressed to said Respondent and his representative as follows:

To: Chief Judge Thomas Southwick  
ECB Appeals Board, 10<sup>th</sup> Floor  
New York, NY 10038

Sam Polatsek  
155 Meserole Street  
Brooklyn, NY 11249

David Winkler  
134 Broadway, #45  
Brooklyn, NY 11249

[TSouthwick@oath.nyc.gov](mailto:TSouthwick@oath.nyc.gov)

[DAVID@HATZLUCHAEXPEDITING.COM](mailto:DAVID@HATZLUCHAEXPEDITING.COM)

In the letterbox regularly maintained and exclusively controlled by the United States Postal Service, located at 280 Broadway, New York, New York 10007.

Dated: November 17, 2015

  
Michael J. Burns, Esq.  
Administrative Enforcement Unit  
280 Broadway, Fifth Floor  
New York, New York 10007

(212) 393-2276

NYC Department of Buildings  
Administrative Enforcement Unit  
280 Broadway, 5th Floor  
New York, NY 10007

ECB/OATH Appeals  
66 John Street, 10<sup>th</sup> Floor  
New York, NY 10038

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NY 01-05102 NY 01-05102

Leonard Sloninski  
306 E 11<sup>th</sup> Street # 5A  
New York, N.Y. 10003  
1(212) 677 7801 /1(347) 690 9494  
[Sloninski@aol.com](mailto:Sloninski@aol.com)  
Owner of 157 Meserole St,  
Brooklyn, N.Y. 11206

December 3, 2015

TO: ECB APPEALS UNIT  
66 John Street 10<sup>th</sup> Fl.  
New York, N.Y. 10038  
Re: ECB Viol. #035116240L  
Place of Occurrence: 155 Meserole St. Brooklyn, N.Y. 11206  
Appeal submitted on Oct. 29.2015

2015 DEC - 3 P 2: 54

ECB

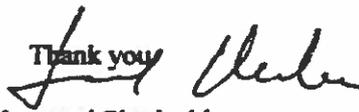
As an adjacent property owner and injured party on whose complaint to the Department of Buildings the ECB Decision an Order was issued (see attached), I would like respectfully bring to the attention to the Appeal Unit reviewing the submitted Appeal ,the following issue:

**Statement in Fact Findings and Conclusion of Law : "this amendments to the plans does not appear on the Department's record of plans for the property(Exhibit 3)." (see attached)**

**Lack of approved amendments to the plans on the Department's record prevented me from appealing on administrative level wrongful installation of the lot line windows due to lack of proof of the final determination.**

The final determination is required on A01 Administrative Objection Form. It is required in order to appeal before Board of Standards and Appeals and seek Article 78 relief, before complaint can be made.

I would like respectfully the Appeals Unit to take it under consideration upon reviewing submitted by the Respondent on October 29,2015 Appeal.

Thank you  
  
Leonard Sloninski

1501139 44



**THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD**

**HEARING LOCATION:**  
Environmental Control Board  
9 Bond Street  
7th Floor  
Brooklyn, NY 11201  
(844) 628-4692



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Method of Appearance  
Live Hearing

**DECISION AND ORDER**  
Violation #: 035116240L (1 NOV)  
Hearing Date: September 21, 2015

To: David Winkler  
134 Broadway  
Suite 45  
Brooklyn, NY 11249

City of New York v. SAM POLATSEK

**Total Civil Penalty: \$1,000.00**

I Notice(s) of Violation (NOV(s)) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Facts/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance.

NOV: 035116240L		
PLACE OF OCCURRENCE: 155 MESEROLE STREET BROOKLYN		
DATE OF OCCURRENCE: 05/27/2015		
ISSUING OFFICER/AGENCY: 2188 DOB		
ECB CODE: B182		
CHARGE: 28- 105.12.2		
DISPOSITION: IN VIOLATION	CIVIL PENALTY IMPOSED:	\$1,000.00

**FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:**

NOV: 035116240L 28- 105.12.2

The ticket is sustained and Sam Polatsek must pay a fine.

Mr. David Winkler appeared and said that he is the authorized representative of Mr. Polatsek. Vivian Currie, Esq. appeared for the Department of Buildings (Department). The Notice of Violation ("ticket") said that work did not conform to approved construction documents. It specified that the plans showed that the lot line windows must be a single sheet of fire rated glass but that the windows as installed were double hung ordinary glass. The ticket said that this was a Class 1 violation.

Mr. Currie presented a series of four photographs taken by the officer at the time of his inspection (Exhibit 1). He also presented a set of plans showing the conditions in question (Exhibit 2). Mr. Currie added that the ticket referred to this as a Class 1 violation because of the potential fire safety problem arising from the lack of fire rated glass in this six story building.

Mr. Winkler said that fire rated windows are unnecessary if there are sprinkler heads near the lot line windows. In support of this assertion, he presented a copy of the Department's Building Bulletin 2015-017 dated June 30, 2015 (Exhibit A). He pointed to a page that said in part that buildings are "...permitted to satisfy required natural light and ventilation...and may be approved by the borough examiner, where... 4. ...in cases where the subject R-2 or R-3 building is fully sprinklered, the openings are protected by an approved water curtain using automatic sprinklers approved for that use and installed in accordance with NFPA 13 as modified in Appendix Q..." Mr. Currie noted that the issuance date of this Bulletin (June 30, 2015) was after the date the ticket was issued (May 27, 2015). He also said that this Bulletin did not support Mr. Winkler's assertion. I am not persuaded that the Bulletin proves that the fire rated windows are unnecessary because of the presence of nearby sprinkler heads. It only says that plans may be approved by the borough examiner on that basis in certain instances that are enumerated there and no demonstration was made that these conditions apply here. In any event, the Bulletin postdates the ticket and the existence or nonexistence of the violating condition is as of the date the ticket was issued.

Mr. Winkler then said that Mr. Polatsek's plans were amended and he presented both the original set of plans (same as Exhibit 2) and an amended set of plans (collectively, Exhibit B). The amended plans do show that the requirement of fire rated windows was dropped but these plans are dated August 17, 2015, which is after the date of the ticket. Mr. Currie said that this amendment to the plans does not appear on the Department's record of plans for the property (Exhibit 3). Mr. Winkler said that the fact that the amended plans were approved without the requirement of fire rated windows means that the absence of fire rated windows noted in the ticket was, at most, a Class 2 violation and not a Class 1 violation, as set forth in the ticket. Mr. Currie said that the amended plans show other changes that would also need to be taken into account. He noted that the electric powered heating and cooling units that, in the original plans were located near the windows had been moved away from the windows in the amended plans. He said that their presence near the windows in the original plans made the potential fire hazard worse due to the failure to have fire rated windows when the property was actually built.

I credit the testimony and evidence presented by the Department and such evidence presented by Mr. Polatsek that is the product of the New York City Environmental Control Board

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Leonard Sloninski  
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Owner of 157 Meserole St.  
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Sloninski@aol.com

Mr. Ira Gluckman  
DOB, Brooklyn Borough Commissioner  
210 Joralemon St. 8<sup>th</sup> Fl  
Brooklyn, N.Y. 11201  
Re : 155 Meserole St.  
Brooklyn, N.Y. 11206  
Job # 320 729 137

May 26, 2015

Dear Mr. Gluckman,

In our conversation today I've explained briefly nature of my complaint regarding lot line window facing my property at the development "Job # 320 729 137. Herewith I would like provide you with more details as the issue is deeply troubling to me and adversely effected me as an adjacent homeowner.

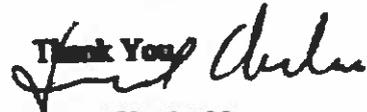
1. Permit No: 320729137-01-AL was wrongly issued as the building was demolished and it is totally new construction. Approved architectural and structural plans from 2014/07/31 and 2014/09/09 are the proof that it is a totally new steel frame building.

2. What I am mostly concern with is that huge 8'x5' sash windows installed just a 1 foot above my rubber wood structure roof, what besides a fire hazard will provide an access to my roof to be used as a terrace and through fire escape to enter into apartments of my building for criminals. It is just a nonsense (See enclosed photos)

3. Three sash windows 72"x 36" just 1.5 feet above my backyard level will provide an easy access to my property as and will restrict use of it(See enclosed photos)

4. Installed windows are contrary to the approved plan A-101.02 from 2014/07/31. The superseded on 201/02/05 plan A-201.00 is not available up to this date for viewing and not on the BIS page" yet on mine complaint to the DOB# 3513354 the disposition on 05/14/2015 was: "Unsubstantiated based on department record".

I would appreciate if you could within scope of your authority review this issue as I would like to resolve this matter in the best interest of the developer and mine.

Thank You  
  
Leonard Sloninski



**Environmental Control Board**  
66 John Street  
New York, NY 10038  
Telephone: (212) 436-0624

Date Mailed: 12/17/15

Violation No.: 351 162 40L

City of New York v. Sam Polatsek

Premises: 155 Meserole Street, Brooklyn

Date of Occurrence: 5/27/15

Agency: Department of Buildings

Appeal No.: 1501139 Appellant: Respondent

To: Appellant

David Winkler  
134 Broadway, #45  
Brooklyn, NY 11249

**Appeal Decision and Order**

1. An appeal to the Board was filed on 10/28/15 from the following recommended decision and order by Hearing Officer #946 (Bklyn) on the above violation.

Mail date	Law charged	Recommendation	Penalty
10/2/15	Code Section 28-105.12.2	Violation	\$1,000

2. After consideration of the entire record before it, the Board now makes the following findings of fact and conclusions of law, consisting of 3 pages, attached.

The appeal is granted and

Respondent is found not in violation of Section 28-105.12.2 of the Administrative Code of the City of New York.

3. The Board orders that the recommended decision and order be:

**reversed; notice of violation dismissed.**

Total penalty already paid \$ 1,000.00

Total penalty now imposed \$ - 0 -

**Amount due Respondent \$1,000.00**

Board decision date: December 17, 2015 *Fidel F. Del Valle*  
1210B15V/835 Chair, Environmental Control Board

cc: Petitioner  
Renaldo Hylton, Executive Director  
D.O.B. Administrative Enforcement Unit  
280 Broadway – 5<sup>th</sup> Floor  
New York, NY 10007

(See back of this order for refund information if there is an "Amount Due Respondent")

Respondent, a general contractor, appeals from a recommended decision and order sustaining a Class 1 violation of Section 28-105.12.2 of the Administrative Code of the City of New York (Code) for work that does not conform to approved construction documents. In the notice of violation (NOV), the issuing officer (IO) stated that on May 27, 2015, he observed work in progress under alteration type 1 application no. 320729137. The IO noted: "The plans – drawing #A-101.02 indicate that windows on the lot line (exp.4) at 2<sup>nd</sup> through 6<sup>th</sup> floors should be one single sheet of fire rated glass. Observed: all windows are installed and they are double hung (Proline) – ordinary glass."

At the hearing, Petitioner, the Department of Buildings (DOB), submitted photographs taken by the IO, including one of the cited drawing. Petitioner asserted that because the building was a six-story multiple dwelling, the absence of fire-rated glass presented a fire-safety issue. While Respondent's representative did not dispute the IO's observations, he challenged the Class 1 designation of the violation. Because of the building's automatic sprinkler system throughout, he asserted, with sprinkler heads near the windows to create a water wall discharge, as shown on the cited plans, the lot-line windows did not require fire-rated glass. In support, Respondent's representative submitted Buildings Bulletin 2015-017 clarifying Code requirements for lot-line openings. Additionally, he offered amended plans omitting the fire-rated glass. He argued that DOB's approval of those plans on August 17, 2015 further proved that fire-rated glass was not required.

The hearing officer found that Respondent's correction of the violating condition after the date of the violation was not a defense. The hearing officer found further that the violation was properly designated as Class 1 because of potential fire problems.

### **Issue presented on appeal**

The issue on appeal is whether Petitioner established that the absence of fire-rated glass in the lot-line windows of a multiple dwelling was an immediately hazardous condition.

### **Applicable law**

Section 705.8.2 of the New York City Building Code (BC) provides:<sup>1</sup>

Where openings are required to be protected, fire doors and fire shutters shall comply with Section 715.4 and fire window assemblies shall comply with Section 715.5.

**Exception:** Opening protectives are not required where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 and the exterior openings are protected by a water curtain using automatic sprinklers approved for that use. The sprinklers and the water curtain shall be installed in accordance with NFPA 13, as modified in Appendix Q.

### **The appeal**

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<sup>1</sup> The BC is contained in Title 28 of the Code.

On appeal, Respondent, by his representative, again argues that the nonconforming work consisting of non-fire-rated glass for lot-line windows was not an immediately hazardous violation. Respondent reiterates that the lot-line windows did not require fire-rated glass because of the proposed sprinkler heads at the windows at the second through sixth floors. Respondent again asserts that DOB's approval of the amended plans, which omitted fire-rated glass, proves that its use was not required. Respondent also contends that Petitioner improperly speculated at the hearing that the proximity of heating and cooling units to the windows in the original plans triggered the fire-rated glass requirement. Respondent argues for the first time on appeal that the NOV did not reference any provision of law requiring fire-rated glass, it was deprived of due process. However, the Board declines to consider Respondent's new argument on appeal.

In its answer, Petitioner contends that correction of the violation after issuance of the NOV does not justify a reduction in classification.

Pursuant to Section 3-71(c) of Title 48 of the Rules of the City of New York, Respondent's reply to Petitioner's answer will not be considered by the Board

#### **Classification not established**

On this record, the Board finds that Petitioner failed to establish that the absence of fire-rated glass in the lot-line windows of a multiple dwelling was an immediately hazardous condition. At the hearing, Petitioner initially argued that the absence of fire-rated glass on the lot-line windows presented a fire-safety issue. In rebuttal, Respondent's representative asserted that because of the building's automatic sprinkler system throughout, with sprinkler heads located near the cited lot-line windows to create a water curtain upon discharge, those windows did not require fire-rated glass. Respondent's representative argued that the non-conforming work (ordinary window glass) was therefore not a Class 1 violation. In support, Respondent submitted Buildings Bulletin 2015-017, which purports to clarify Code requirements for lot-line openings. Buildings Bulletin 2015-017 references BC 705.8.2, which requires that window assemblies comply with fire protection rating set forth in BC 715.1, except where the building is equipped with an automatic sprinkler system throughout and exterior openings are protected by a water curtain using automatic sprinklers approved for that use.

Here, it is undisputed that the original plans, approved on June 27, 2014, showed an automatic sprinkler system throughout the building, with sprinkler heads located near the lot-line windows to create a water curtain upon discharge. Upon reviewing the plans and Buildings Bulletin 2015-017, Petitioner then argued that because the sprinkler system was not yet operative, the lack of fire-rated glass created a fire hazard to workers. However, the maintenance or construction of the sprinkler system for the protection of workers in a building under construction is governed by Chapter 33 of the BC and the Fire Code. Petitioner provided no evidence that the sprinkler system at the cited premises did not comply with the applicable regulations. Petitioner also argued that the proximity of heating and cooling units to the lot-line windows required the use of fire-rated glass. However, Petitioner identified no provision of law requiring fire-rated glass because of proximity of heating and cooling units to windows. Consequently, the Board concludes that where automatic sprinkler protection was provided, the use of ordinary glass in the lot-line

windows, while nonconforming to the fire-rated glass shown on the approved plans, was not an immediately hazardous condition. Because Petitioner thus failed to establish the classification, which is an element of the charge, dismissal of the violation is warranted.

Accordingly, the Board reverses the hearing officer's recommended decision and order and dismisses the NOV.