

## DOB Issues New Rule

[updated June 13, 2009]

The Buildings Department (DOB) published its new rules concerning the complaint process in the City Record today. The one thing that I continuously raised failed to get covered in the rule's "statement of purpose", DOB's news release announcing the rule, or an accompanying "development guide" (See links below.). The only place where the DOB affirmed the fact that the Commissioner of Buildings, notwithstanding the existence of this rule, may investigate an alleged violation at ANY time, lies in #19 of the "FAQ" (Frequently Asked Questions) for the rule:

*19. What if challenge comes in late?  
The Department has the authority to review any challenge at any time in order to ensure compliance with all codes, rules, and regulations.*

This remains a glaring omission that Queens Civic Congress previously raised. Nothing else changed since Queens Civic Congress and others posed their objections other than a formal process to review which may just serve as a check on the self certification plans and we get 45 days instead of 30. The comments I received since the rules became public make clear few, if any, community members see any strength in the obscure placement of that statement. Please share your take.

Below find the email from DOB that transmitted the FAQ, the links to the new rule. On the next page find links to the new rule and accompanying information, including the FAQ, comments by QCC Zoning and Enforcement Chair Joe Amoroso and, on page three, a news release issued by Council Member Avella "denouncing" the rules.

Original Message-----

From: {NYC Department of Building}

Sent: Tue, 9 Jun 2009 3:57 pm

Subject: RE: DEVELOPMENT CHALLENGE PROCESS FAQ's

Our Development Challenge Process Rule was published in today's City Record. This Rule will become effective on July 13th. I am happy to supply you with these FAQ's as a supplement to the text of the Rule. For more information visit our website at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

## Links to the new DOB rule

### [See the New Requirements](#)

- ▶ [New Determination Process](#)
- ▶ [Learn How These Requirements Change Existing Document Submission](#)
- ▶ [Read the Development Challenge Process Rule](#)
- ▶ [Read the Rule FAQs](#)
- ▶ [See the Development Challenge Guide](#)
- ▶ [See the Zoning Diagram Guide](#)

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Please note that the challenge process requires a hearing with 'the appropriate part' but it is not clear if they mean the person filing the challenge or the developer. If it is with the person filing the challenge then so much for 'anonymous' and this will probably scare many would-be objectors from filing a challenge. This needs to be clarified. Can anyone help?

- Joe Amoroso, QCC Zoning and Code Enforcement Co-Chair

#### **CCD1: Construction Code Determination**

The "Construction Code Determination" form is used to request a determination (formerly known as reconsideration, pre-consideration, or interpretation) for all issues that are non-zoning related, for a job or planned job, from the Department.

**Upon submission an appointment with the appropriate party will be scheduled.** During the appointment, Department staff will review the request and issue a decision. Note that the Department will only review determination requests submitted on this form, and no longer accept them on the "Pre-Consideration and Reconsideration Application" (BC1) or "Additional Information" (AI1) form.

This form will be required starting July 13th, 2009.

 [Download Form](#) (39 kb)

 [Download Instruction](#) (29 kb)

#### **ZRD1: Zoning Resolution Determination**

The "Zoning Resolution Determination" form is used to request a zoning determination (formerly known as reconsideration, pre-consideration, or interpretation), for a job or planned job, from the Department. **Upon submission an appointment with the appropriate party will be scheduled.**

During the appointment, Department staff will review the request and issue a decision.

Note that the Department will only review determination requests submitted on this form, and no longer accept them on the "Pre-Consideration and Reconsideration Application" (BC1) or "Additional Information" (AI1) form.

**This form will be required starting July 13th, 2009.**

 [Download Form](#) (38 kb)

 [Download& Instruction](#) (29 kb)

June 10, 2009

Press Release

For more information please contact: Tony Avella 718-747-2137; 917-723-3289

### Avella Denounces DOB's Rehashed New Development Challenge Process

Today, Councilman Tony Avella denounced the Department of Buildings (DOB) rehashed new development challenge process, which creates a new 45-day formal public challenge period for the public to contest zoning challenges on new buildings or Alteration Enlargements affecting the exterior of an existing building. DOB had originally attempted to adopt the new development challenge process only three days after the public hearing on March 6<sup>th</sup>, 2009. However, due to pressure from Councilman Avella the enactment date was suspended until July 13<sup>th</sup>, 2009 to allow more time for DOB to review the public's comments.

“Despite increasing the allotted time of the public challenge period to 45-days, DOB has done absolutely nothing to take the public's concerns into consideration, which is disgraceful given the tremendous amount of public outcry in opposition to these rule changes at the public hearing. While Mayor Mike Bloomberg and DOB Commissioner LiMandri are claiming that this will empower the public with greater oversight over new developments, they could not be further from the truth. The implementation of any comment period, whether it is 30 or 45-days, will actually diminish the ability of residents to contest new construction by creating a defacto statute of limitations to challenge a new development. In effect, this procedure will only benefit unscrupulous developers who will simply wait out the clock to avoid community challenges. As a result, I demand DOB scrap this plan!”

“Furthermore, the process by which DOB continues to implement this proposal is extremely shameful. They attempted to ignore public comments through the first incarnation of this plan by trying to enact the rule changes only three days after the public hearing. Now despite assurances that they would allow further public review after the amended changes to the rules they are not going to conduct another public hearing, which is completely shameful. It is blatantly obvious that they never had any intention of listening to the public in the first place,” added Avella.

“Rest assured, I will continue to fight this proposal through any means necessary, including legal action. It is imperative that we act now to preserve the Constitutional rights of all New Yorkers,” concluded Avella.