



## **What, me worry about a sprinkler law that becomes effective January 1st, 2018?**

January 13, 2012 - Spotlights

Yes, there is no time like the present to worry about the law New York City enacted in 2004 designated as Local law 26/04. The law was a direct result of the events of September 11, 2001.

Law 26/04 requires by January 1, 2018 commercial buildings taller than 100 feet to have in place, sprinklers throughout the building. Thereafter the Law was amended to require owners of buildings taller than 75 feet take certain other precautions.

The seven-year certified report was required by this past July 1st.

Completion is required by January 1, 2018.

The owner is also required to file a 14-year report between January 1, 2018 and July 1, 2018. As well as submit a final architect or engineers certified report by July 1, 2019. Failure to timely file the reports and affidavits will jeopardize an owner's ability to seek a hardship extension.

Why worry now you might say. You have six years to deal with it. Nine years have passed and there are buildings where the work is not completed or not begun. The reasons why are unimportant. Not doing the work will create a problem for the owner and their successors in interest.

Yes the work has or will cost untold thousands of dollars. I have around \$4.50 per s/f. Obviously the cost of the work varies by the size of the building and other variables such as; existence of sprinklers; access to interior spaces, whether new piping needed or if asbestos is found. The closer to the deadline an owner acts to do the work, the higher the price they will be charged by sprinkler companies.

Failure to comply with the Law will enable the City of New York to fine the owner. I can foresee situations where the City issues a building vacate order because of an owner's failure to comply with the law. Imagine the aftereffects. Tenants adversely affected, as in all of them, will sue immediately. There will be substantial damage claims and constructive eviction claims. There will likely be no rental income and, your insurance carrier will disclaim saying your failure to install the sprinklers were intentional acts on your part. And, any sprinkler company then called to do the work will charge you a hefty premium to do the work.

It is imperative that you review the leases of each tenant. In some instances the cost of compliance with the Law may rest with the tenant. Or it may be an expense that can be passed along to the tenant once the work is done by the owner.

If it is the tenants' responsibility to do the work, push them to get it done now. If the deadline is missed or ignored the city will come down on you the owner, not the tenant, regardless of whose responsibility it is. The fines will be levied against you, the owner, even if the tenant is responsible. Given that it can generate hefty fines, and given how government has turned enforcement of building codes into an additional source of income generation, anticipate immediate and swift enforcement of the Law. Beware the collateral damage of a fire loss where the sprinklers are not

installed.

While this law may well be specific to New York, one can reasonably anticipate that your local municipalities, if they already haven't, will in due time, change local laws to require owners to comply with a similar or perhaps stricter version of the law.

Sprinklers are important in many ways. They save lives and can minimize damage in the event of a fire. In older properties insurance costs should also be reduced.

Now is the perfect time to make sure that your properties are in compliance with local fire/building department laws and to be mindful of potential changes to local fire codes and building regulations as well as carefully review existing leases and ponder future leases for inclusion of the costs or retrofitting for sprinklers or adding protective language for you.

Fire safety is serious. Attend to your sprinkler system and make sure all your buildings are in compliance with current fire safety and building laws immediately. Your next call should be to your architect or engineer to make sure you are in compliance.

Howard Stern, Esq., is the owner and an attorney at Law Offices of Howard Stern, White Plains, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540