



Second phase of the New York City site stalled program: Re-evaluation protocol

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With the bettering of the local real estate market and the economy in New York City, no compliance issue has been more frustrating than the second phase of the stalled site program.

As we may remember, the stalled site program was one offered by the DOB where a site could be grandfathered with its Old Code (1968) approval for four years if certain "setup" and maintenance conditions were met per the New York City DOB regulations.

These components were not only costly, but owners undertook them to maintain their benefits in regard to mechanical systems, scissor stairs, standpipe, and elevator/core size that benefitted them in regard to FAR and useable/rentable space for their project.

This grandfathering is supposed to be good for four years and appeared to be an acceptable rationale to promote some sanity and benefits in a down economy.

Now that many sites are approaching "re-activation" the base concept of the stalled site program is being revisited.

DOB has opted for a second bite at the apple where a project must be re-evaluated coming out of the stalled site program with a 3 criteria evaluation:

- * Permits current
- * No violations
- * No change in building design

The criteria employed should "allow" an owner to keep the grandfathered benefits for their approved designs.

Needless to say, what should be a simple process now is "stalled" by re-evaluation protocol of a plan exam and a programmatic release.

Developers also have to be wary that a change in their project that is necessary to be saleable for a changing market might foster a complete re-design under the new code. This cannot only result in time delays due to re-design and re-approval but also possible negative financial feasibility resulting in FAR loss from a redesign to accommodate the 2008 code. Construction cost increases can be amortized into a project to recoup over time, but not so for lost useable and rentable s/f.

In addition, there appears to be some confusion as to the applicability of the New York City Energy Code (2010) and its effects on stalled sites. One would think the building code grandfathering program of the stalled sites would apply to the energy code, but alas the technical aspects of the legislation may prevent such an assumption.

The applicability of the new energy code to already designed stalled projects may be equally disastrous as it may affect the building envelope substantially enough to create new compliance and zoning issues that can also render the project more problematic and costly to construct.

It is important that the old code/ new code and energy code applicability of the stalled sites be

defined to allow owners and purchasers of stalled site to get the benefit of the intention of the program. Build, put properties at the tax role and get people to work should be the goal, not bureaucratic and technocratic turf war parameters.

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