



## **Understanding New York City issued violations and the steps to properly handle/remove them**

June 23, 2008 - Spotlights

In the real estate industry there are many different areas of information that an owner/ manager must be familiar with in order to successfully manage their properties. One of the lesser known areas is that of properly handling and removing NYC issued violations. Ignorance of this matter can cost owners thousands of dollars in excess fees and penalties that would otherwise not be required if one had the proper knowledge and understanding of these codes. In order to fully understand all aspects of violation removal one must first familiarize himself or herself with the complex maze of the various city agencies that issue violations. Each agency issues violations with different systems and techniques; the first step involved in clearing these violations is to fully understand that agency's procedure and what needs to be done to satisfy, correct and remove the violation off of records.

The most common and prevalent city agency that issues violations is the Environmental Control Board, better know as ECB. To fully delve into the various facets of the ECB is beyond the scope of this article. However, to summarize, the ECB issues violations through the Dept. of Buildings, Fire Dept., Dept. of Sanitation, Dept. of Transportation and Dept. of Environmental Protection. Once again each one of these departments has different penalty schedules and distinct methods to correct the violation. For example an ECB-Dept. of Sanitation violation usually will have a maximum penalty of \$300 and is not required to be certified corrected. On the other hand, an ECB-Dept. of Buildings violation can have a minimum penalty of \$800 and require the violation to be certified corrected at the Dept. of Buildings. One of the most common mistakes is the lack of certifying the correction at the Dept. of Buildings after the judge has made a decision. While a person might go to the hearing and had paid the penalty imposed, the violation will still be considered active if the correction has not been completed. In turn, these violations can hold back J-51 benefits, obtaining a final certificate of occupancy and even delay a closing. In contrast, for an ECB-Dept. of Sanitation, Dept. of Transportation and Dept. of Environmental Protection violation, there is no cure or mitigation available. However, no correction is required to be certified with these agencies.

However, this only applies to ECB-Dept. of Buildings and Fire Dept. violations. Furthermore, these violations that are moderate and non-hazardous can be cured before the first hearing date, thereby avoiding paying any fines or attending a hearing. Also, these violations are eligible for mitigation if the proper proof of correction is presented to the judge at the hearing.

It is important to note, that it is crucial that there is someone from the owner/management that attends all hearings and avoids letting their cases default. Recently the city has become very meticulous in deciding which cases they are willing to vacate the default order. In particular, cases that are past one year of the docket date have become increasingly more challenging to receive a new hearing date from the ECB.

Dept. of Buildings violations are generally issued for defects in the elevator and for not performing

the annual inspections on your elevator and boiler. All commercial properties and multiple dwellings are required to have their boiler inspected and subsequently have the report submitted to the Dept. of Buildings. A common oversight that I have seen over the years is not properly voiding disconnected or removed boiler and elevator devices. Due to that fact that these violations are computer generated and issued annually, if a landlord fails to properly notify the Dept. of Buildings, violations will be issued regardless of the fact the boiler or elevator device is not in use.

Dept. of Health primarily issues violations for pest control, window guard and lead violations. As these violations range from \$200 to \$480 per section, it is imperative that the proper proof of compliance is presented to the judge at the hearing in order to obtain the minimum penalty possible. Also note that all penalties must be paid to the Dept. of Health within 30 days so that late penalties are not added.

As we are all aware, the Dept. of Housing Preservation and Development (HPD) issues violations to residential landlords for defects in the apartments. The simplest and most effective way to remove these violations are to correct the defects and certify it with HPD in the allotted time that is given for new violations. Failure to comply with excessive HPD violations can result in having the city commence an HPD litigation case against the landlord. In order to avoid this, landlords should monitor their buildings and conduct dismissal requests at least once or twice a year.

Jack Jaffa & Associates has been working together with over 400 management companies since it was founded in 1997. We handle all aspects of violation removal, including hearing representation, HPD inspections, researching and preparing all necessary paperwork for our clients.

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