



## **How does a tragic building collapse spur new building safety legislation? - by Jennifer Yulfo**

June 14, 2022 - Front Section



### **Tragic Building Collapse Spurs New Building Safety Legislation**

Oftentimes, tragedy can be the catalyst for change. In the case of the tragic Champlain Towers in Surfside Fla. that spontaneously collapsed in June of 2021 killing 98 people, this was a clear impetus for many legislative and regulatory changes put into effect to prevent future negligence and destruction. This new wave of codes and requirements can be seen everywhere from N.J. to Fla., and beyond. Here are just a few of the recent mandates that have been put into effect.

Fannie Mae implements new requirements for co-op & condo loans

Residential buildings with aging infrastructure are a growing concern across the nation, especially in

the wake of recent events. In response to these concerns, Fannie Mae, one of the top lenders of co-op and condo purchases and refinances, has issued temporary requirements that impact the eligibility of condo and co-op loans in residential buildings.

Effective January 1, 2022, units in condo and co-op projects with significant deferred maintenance (i.e. severe deficiencies that will affect the overall integrity of the project) or in projects that have received a directive from a regulatory agency to remedy unsafe conditions are not eligible for a Fannie Mae loan.

In addition, projects that have failed to obtain an acceptable certificate of occupancy are not eligible. Until the required repairs have been made and documented, these projects will remain ineligible for loans. These policies, however, do not apply to routine maintenance or repairs necessary to maintain or preserve the integrity and condition of its property.

While these requirements only apply to those who are seeking Fannie Mae loans, it is significant given the fact that this large lending institution often sets the tone for future industry standards. It will be interesting to see if other lenders implement such regulations going forward.

#### Jersey City now requires façade & structural inspections

Jersey City has also responded to the heightened concerns amongst its community by implementing new facade and structural inspection mandates.

Similar to Local Law 11/98 established by the New York City Department of Buildings, Jersey City will now require that buildings over six stories (or 4+ stories for masonry façades) have their facades inspected every five years. The façade inspection must include all exterior walls and appurtenances and be performed by a qualified Professional Engineer or Registered Architect. The initial façade inspection for qualifying buildings must be completed by December 31, 2023.

Structural inspections will only be required of concrete buildings and must include a review of all foundations, balconies, structural members, and waterproofing systems. The initial inspection must be completed by December 31, 2022 and be conducted every 10 years thereafter.

#### NYC now requires periodic inspections of all garages

Many New York City building owners have grown accustomed to the required periodic façade inspections that have now been in place for over two decades. NYC is now taking it one step further.

As of January 1, 2022, the NYC DOB began enforcing Local Law 126 of 2021, which requires parking structures to be inspected every six years. This includes any open or enclosed parking garage as well as any building, or portions of a building, used for parking or storing motor vehicles.

The inspections must be conducted by a NYS registered Professional Engineer, who will file a report with the DOB documenting whether the parking garage is “safe,” “unsafe,” or “safe with repair and/or

engineering monitoring.” Annual observations should also be completed between assessments but do not require a PE.

Florida imposes fiduciary duty for building repairs on owners

Condo owners throughout Florida could face significant increases in their association fees as the result of a recently passed law which imposes strict new financial requirements on building owners to pay for structural repairs.

The goal of the bill is not only to tighten inspection requirements and the financial responsibility of building owners, but also make building maintenance information public record to new home buyers, existing homeowners and public officials – with the aim of keeping condo associations accountable for their financial obligations.

The law also requires buildings that have been occupied for 30 years (or 25 years if within three miles of the coast) to undergo recertification inspections. Inspections are required every 10 years thereafter.

While these newly enacted laws and regulations may be reactionary in nature and too late for the victims of the Champlain Towers, the hope is that these new stipulations will motivate building owners to be more proactive with the overall safety and maintenance of their buildings, thereby preventing unnecessary tragedy going forward.

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