

REBNY Testimony | May 23, 2023

The Real Estate Board of New York to The New York Fire Department on Its Proposed Miscellaneous Rule

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association. Founded in 1896, REBNY represents commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople and other organizations and individuals active in New York City real estate. REBNY strongly supports policies that expand the local economy, grow, and improve the City's housing stock and create greater opportunities for all New Yorkers. REBNY thanks the FDNY for this opportunity to comment on these Draft Rules.

REBNY appreciates that these extensive rules are largely devoted to implementing the most recent New York City Fire Code, which was updated in 2022. As such, many of the proposals involve simple renumbering and adjusting references to the newly renumbered codes.

However, the amendment to Subdivision (g) of §102-01 of Title 3 of the Rules of the City of New York included in this rule is different. It establishes a timeline for "Pre-Existing Facilities and Conditions" that determines if buildings fully permitted and approved prior to a specific date can comply with the previous code or not. The critical cutoff is based on the date by which the building is constructed. If the building misses the construction deadline and is not grandfathered in, the rule allows owners to apply to FDNY to show that complying with certain provisions of the new code constitutes a hardship. They would then work with FDNY to find measures that would ameliorate FDNY's safety concerns related to any non-compliance with the new code.

In this draft rule the two critical dates are given as April 15, 2022, in subsection 5, for when a building's plans would have needed to be approved, and April 15, 2023, in subsection 6, for when a project would need to be completed to automatically be grandfathered. It is our understanding, based on how FDNY has addressed this matter in previous codes, that the two dates should be, subsequently, October 15, 2023, in subsection 5, and October 14, 2024, in subsection 6.

Once again, we thank you for this opportunity to submit testimony on this draft rule.

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