

REBNY Comments | December 1, 2025

The Real Estate Board of New York to The Department of Buildings on the Proposed Rules related to Flood Hazard Areas

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY appreciates the opportunity to provide comments to the Department of Buildings (DOB) on the proposed amendments to 1RCNY §3606-01- Substantial Damage and Improvement Determinations.

REBNY supports the proposed rules which codify the process the DOB currently uses to determine whether a building in a Special Flood Hazard Area has sustained substantial damage. The rules establish a notice and appeal process for property owners regarding the DOB determination. Under the proposed amendment, property owners will receive formal written notice when DOB finds a structure to be substantially damaged, and owners will have a defined method and timeline to appeal the determination. All appeals must use FEMA's Substantial Damage Estimator (SDE) and include required documentation. Appeals must be filed within 24 months with a possible 12-month extension available for reasonable cause.

The proposed amendment clarifies substantial improvement requirements. If a building is determined to be substantially damaged, any repairs are automatically considered "substantial improvements," and triggers compliance with flood-resistant construction requirements, such as elevation, floodproofing, and other protective measures. Local rules will now be aligned with National Flood Insurance Program (NFIP) standards.

While REBNY supports these amendments, we suggest edits to clarify two provisions. The proposed rules outline amendments to Section 3606-01 of Chapter 3600 of Title 1 of the Rules of the City of New York and add new subdivisions. Under subdivision (4), it states, "appeals must be submitted in a form and manner established by the department..." However, the rules, as outlined in subdivision (3), provide the manner and appeal – within 24 months – as such, the reference to "and manner" should be removed. Additionally, under subdivision (3) the reference to forms provided by the department should include a notation to reference this section (3606-1). We believe these changes will allow for better clarity and application of the amended rules.

REBNY commends the Department of Buildings for amending rules to codify an existing practice and appreciates the department for considering these points.

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