

Comments of
The Legal Aid Society

on

PROPOSED DEPARTMENT OF BUILDINGS RULES

presented before

New York City Department of Buildings

March 30, 2026

The Legal Aid Society welcomes this opportunity to comment on the New York City Department of Buildings (DOB)'s proposed rule changes regarding elevators, escalators, personnel hoists, and moving walks.

Legal Aid consistently encourages City agencies to acknowledge that deteriorating building conditions pose a significant risk to the City's affordable housing stock. Elevator safety is a particularly pressing issue for both disabled and non-disabled New Yorkers who rely on functioning elevators to get in and out of their homes. We sincerely ask DOB to carefully consider our comments, as this issue affects some of the most vulnerable populations in New York City.

In crafting our comments, we urge DOB to enhance and improve enforcement mechanisms, especially for landlords who repeatedly violate DOB regulations. Without a strong financial incentive to maintain compliance, many landlords will simply ignore building codes and safety standards. We also urge DOB to improve communication with tenants living through elevator outages so they are advised of both their rights and the landlord's responsibilities.

Our specific comments follow:

1) Rule 103-19: Replacing the repealed Rule 11-02 relating to elevator and escalator violations constituting a condition dangerous to human life and safety.

While we applaud certain additions to this rule, including provisions regarding alternative accommodations for tenants in buildings with out of service elevators, we are deeply concerned that the civil penalties provision found in the repealed Rule 11-02(b) has not been included in the proposed Rule 103-19. Rule 11-02(b) provided for a minimum civil penalty of \$150 per day for a landlord's failure to remove a violation constituting a condition dangerous to human life and safety. Without the deterrent effect of civil penalties, there is little to encourage landlord compliance with DOB's proposed rule. DOB should not only reinstate the repealed Rule 11-02(b), but they should also update the minimum civil penalty amount to \$500 per day to enforce compliance with its regulations.

In addition to reinstating the civil penalty provision, we believe that DOB should reduce the number of days without elevator service that will trigger a condition hazardous to human life from 14 days to 1 day. For wheelchair-using New Yorkers, even one day without a working elevator can pose a condition hazardous to their life. Reducing the number of days to 1 would better protect vulnerable tenants.

We suggest that DOB specifically include elevators subject to a cease use order in this provision by amending subsection (a) to read "All elevators are out of service **or subject to a cease use order** in a building . . ." We have observed building owners operate elevators subject to cease use orders, which creates a condition dangerous to human safety.

As written, DOB's proposed rule designates a condition dangerous to human life and safety when there is no elevator service for 14 days, no alternative accommodations, and no demonstrated practical difficulty to repairing the elevator. We are deeply concerned by the

implication that wheelchair-using or otherwise disabled tenants in buildings without elevator service would not be entitled to alternative accommodations if a practical difficulty is demonstrated. These tenants will be trapped in their apartments regardless of whether the elevator outage stemmed from a practical difficulty or otherwise. If an elevator needs to be replaced, which can take months, and a practical difficulty is found, an owner would be exempted from accommodating their tenants at exactly the moment when they would need it the most. We would therefore urge DOB to simplify this rule, requiring alternative accommodations whenever elevators are out of service, or projected to be out of service, for a designated period of time, regardless of the reason for the outage.

In the section addressing what constitutes a “practical difficulty” to repairing the elevator, the rule states that “letters from part manufacturers or authorized representatives indicating a required part will not be available” would be acceptable. We suggest that DOB clarify that an “authorized representative” cannot be an employee of the landlord, such as a superintendent, but must be an authorized representative of a part manufacturer or retailer. We suggest amending the language to read, “letters from part manufacturers or authorized representatives **of a part manufacturer or retailer** indicating a required part will not be available. . .” Without clarifying this rule, owners may attempt to use their own “authorized representatives” to establish a “practical difficulty,” creating an opportunity for unscrupulous landlords to evade enforcement.

The proposed rule helpfully lists what alternative accommodations can be provided to tenants to avoid a condition dangerous to human life in the absence of a working elevator. Subsection (2) provides that an alternative accommodation can consist of the relocation of tenants to portions of the building where an elevator is not required by Section 3002.4 of the New York City Building Code, i.e. to an apartment below the fifth floor. However, for a wheelchair-using or otherwise disabled tenant who cannot climb stairs, a relocation to the third floor of an apartment building without a working elevator would not constitute a reasonable accommodation. We therefore suggest that DOB amend the proposed rule to make clear that relocation to an inaccessible apartment does not constitute an alternative accommodation.

Relocation both within a building or to an off-site apartment or hotel off premises can come with additional add-on costs. Tenants who are relocated within the building, especially if they are not relocated to an accessible apartment, should be reimbursed for expenses related to the delivery of goods and services during the period of their relocation. We therefore suggest that subsection (2) be amended to read “relocation of tenants to portions of the building where an elevator is not required [] **and reimbursement of expenses related to delivery of goods and services**”. In addition, tenants who are relocated off-site should be reimbursed for any associated moving expenses. We suggest that subsection (4) be amended to read “reimbursement of tenant expenses related to hotel or other lodging costs, **including but not limited to moving expenses or other costs associated with relocation.**”

2) Rule 103-20(a): Regarding cancellation of scheduled elevator inspection appointments.

We suggest that DOB amend the proposed rule to read: “Scheduled appointments . . . may be cancelled no later than two business days prior to the scheduled appointment **with an acceptable reason provided and new appointment dates provided.**” This small change would encourage

expeditious inspections and would discourage landlords from evading inspections through indefinite postponement.

3) Mandate the provision of Tenants' Rights Notices.

Tenants need to be appraised of the state of their elevators, what rights they have, and what responsibilities their landlords bear in relation to elevator service. We suggest that DOB require owners to post in a conspicuous place on all floors within the building a notice regarding tenants' rights whenever a cease use order is issued or a violation constituting a condition dangerous to human life and safety is found. These notices must include: a) information about what specific conditions led to the cease use order and/or violation; b) how tenants can report if an elevator is being used in violation of a cease use order; c) what alternative accommodations are being provided by the landlord; and d) how tenants can access those alternative accommodations. The landlord's failure to post these notices should result in automatic civil penalties of no less than \$500 per day that notices are not properly posted.

In sum, our comments are as follows:

- Reinstating the civil penalties provision from the repealed Rule 11-02(b) in the proposed Rule 103-19 and raising the civil penalty amount to \$500 per day to encourage compliance.
- Revising Rule 103-19 to accommodate disabled New Yorkers by reducing the number of days without elevator service required to trigger a condition dangerous to human life and clarifying that relocation to another apartment that requires residents to walk up stairs does not constitute an alternative accommodation for wheelchair-using or otherwise disabled New Yorkers.
- Revising Rule 103-19 to include and expand the definition of alternative accommodations to include expenses associated with delivery of goods and services and relocation expenses.
- Revising Rule 103-19 to require that tenants with disabilities must be accommodated regardless of the reasons for the elevator outage.
- Revising Rule 103-19 to clarify who must attest to a "practical difficulty" in repairing a malfunctioning elevator.
- Revising Rule 103-20(a) to encourage expeditious elevator inspections.
- Mandating the provision of Tenants Rights Notices in those situations where an elevator is subject to a cease use order or where a condition dangerous to human life or health is found.