

Queens Chapter

New York State Society of Professional Engineers

The Drawingboard

May 2011

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President's Message

By George Tavoulareas, P.E.
President
gltpe@msn.com

On May 5, 2011 Engineers **Chris Petallides**, PE, **Sal Galletta**, PE, **Lou Communelli**, PE, **Tom Szekely**, PE and **Carl Cannizzaro**, PE visited City College and spoke to more than sixty engineering students about engineering, licensure and ethics. The students were receptive and they had many questions for us. We all need to take some time and mentor the leaders of tomorrow. The leaders of tomorrow are our students of today. According to Sal Galletta, "Each one of us can do something about the image of the Engineering Profession by adhering to our core principles and code of ethics in our daily interactions with our colleagues, other professionals and the public in general." We need to get involved. Thanks Sal for taking the lead.

Mayor **Mike Bloomberg** is trying to attract to NYC another college specializing in engineering and applied sciences. According to an article in the NY Times, the mayor will offer \$100 million in capital and incentives such as loans, land, infrastructure investments, etc. to a college dedicated to engineering and the applied sciences. Several colleges throughout the US and abroad have showed interest in the Mayor's proposal. The NY Times article also stated that several local engineering colleges have been angered by Mike's proposal because they feel that this capital should be redirected to the engineering colleges that are established and currently have a presence in NYC. This possess an interesting question. Do we "shore up" the engineering colleges we now have or do we try and attract another engineering college to the NYC area? The

Immediate Past Presidents

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Chris Sideris, P.E.	1994/1996 (718) 224-9091
Robert Lo Pinto, P.E.	1990/1992 (718) 746-7122

NY Times article is attached for your review.

The new Dept. of Buildings special inspections amendment to rule 1 RCNY §101-06 has been issued for comment. Our Chapter and the state society issued letters to the NYC Corporation Counsel and Dept. of Buildings requesting changes. The letters are attached to this newsletter for your review.

I would like to congratulate past President **Chris Petallides**, PE for being appointed to serve on Community Board 11. Community board 11 serves Bayside, Douglaston, Little Neck, Auburndale, East Flushing, Oakland Gardens, and Hollis Hills. Chris previously served his community board and we wish him well.

Our next meeting is a joint chapter meeting with the New York Chapter of ASHRAE. I look forward to seeing you on May 26, 2011 at 6pm. We have a lot to discuss.

Directors 2008-2010

Gregory Georges, PE	(718) 274-4800
Mike Karantinidis, P.E.	(718) 482-0800
John Kepertis, P.E.	(718) 343-6989
Saeed Ainechi, P.E.	(718) 544-7878
Issam Aburafteh, P.E.	(718) 276-9200

Rules and regulations of the City of New York can be viewed at the following link:

<http://www.nyc.gov/html/nycrules/html/proposed/proposed.shtml>

Do You Trust Engineers?

Web link of the month.

<http://www.nspequeens.org/unisphere.html>

Directors 2008-2009

James Manoussoff, P.E.	
Bernard Haber, P.E.	(718) 224 2146
Eliot Shapiro, P.E.	(516) 791-2300
Xenophon Caviris, P.E.	(516) 752-1687
Peter Boudouvas, P.E.	(212) 594-4340
Robert Weiner, P.E.	

Next General Membership Meeting

The next general membership meeting will be held on Wednesday May 26, 2011 at 6:00PM

Admission is \$20 for ASHRAE and NSPE members and \$35 for non-members.

Alex Weiss, P.E.; ASHRAE NY Chapter Program Chair will present:

"Residential hot water boilers, energy codes and the NYC Construction Code."

The presentation will address New York City requirements for compliance with energy codes and the New York City Construction Code including boiler room enclosure requirements, installation of boilers, and elements of heating systems. ASHRAE heating load calculations, and Standard 90.1 requirements. The requirements of a successful design and inspection will also be discussed.

Queens Chapter Engineers Interact with CCNY Students

by Salvatore Galletta, PE



On May 5, 2011 a group of Engineers from the NSPE Queens Chapter went to City College to do a presentation to the students. The presentation covered licensure, ethics and jobs/career issues. Tom Szekely, PE covered licensures while Sal Galletta, PE dealt with the issues of ethics and professionalism. George Tavoulares, PE gave the introductory remarks and also introduced our delegation of Engineers which included, Chris Petallides, PE, Sal Galletta, PE, Tom Szekely, PE, Carl Cannizzaro, PE and Lou Comunelli, PE

Our presentation was given during the students' Club Hours which are from 12.30 pm to 1.45 pm. There was a



large student attendance of over 60 students. The students were from a variety of disciplines with a preponderance from electrical and computer fields. All of the Engineers participated in the presentation by sharing their experience and accumulated wisdom. The students were very appreciative of our efforts and judging by the feedback we got from the students at the conclusion of the event, we made a noticeable impact in their lives. One student told us that he was inspired by what we said and was motivated to go for his P.E. license and looked forward to being active in the Engineering Profession once he graduated.



After the event, some of us met with **Rawlins Beharry**, who is in charge of undergraduate student activities. We discussed our future involvement with the school and the students. Based on our discussion

we expect to have an on-going interaction with the students. To ensure that we have enough Engineers to participate in this effort, we ask our members to volunteer an hour or two of their time and contribute to the education of the next generation of Engineers. Please contact George Tavoulares, PE at 718-352-0025 (office) if you want to join us.



Kriss, Kriss & Brignola, LLP

Mark C. Kriss
Charles T. Kriss
Dominick J. Brignola

Attorneys at Law
350 Northern Boulevard
Albany, New York 12204

OF COUNSEL

Laurine A. Bermudez

Service by Electronic Means or
Facsimile is Not Accepted

Telephone (518) 449-2037
Facsimile (518) 449-7875
E-mail: office@krisslaw.com

May 9, 2011

Michael A. Cardozo, Esq.
Corporation Counsel
of the City of New York
100 Church Street
New York, New York 10007

Re: New York City Building Department - Special Inspection Agencies

Dear Mr. Cardozo:

On behalf of the New York State Society of Professional Engineers (NYSSPE) and its 2,000 member professional engineers, we are writing to address a number of deficiencies in the above referenced proposal. NYSSPE represents professional engineers (totaling more than 25,000 licensees in New York State) practicing in all disciplines (civil, structural, mechanical, electrical, etc.) and practice settings (private practice, industry, government and education).

Our office has previously submitted comments respecting an earlier iteration of the above referenced rule. NYSSPE's concerns are embodied in a letter of June 8, 2010 a copy of which is enclosed. At that time we commended those responsible within the Building Department for their efforts to update the rules pertaining to special inspections and special inspection agencies. The Society's leadership and this office appreciate the ongoing work of the Department of Buildings, and your office, on this important project.

In our previous submittal a major focus of concern was the proposed structure for special inspection agencies (See page 10 section 101-06 (c) 6.) This section continues to be significantly wanting for the reasons set forth in our prior correspondence. Our concerns, as detailed in our prior letter, are focused upon the likelihood that the proposed rule, as presently drafted, will encourage the **illegal practice of professional engineering** by general business corporations and other non-professional entities. Accordingly, it is respectfully requested that the recommendations previously proffered be revisited, and that the section be amended as expressly detailed in our letter of June 8th, 2010.

Additionally, the proposal limits the number of directors within a special inspection agency to one primary and up to four "design professional" alternates. The limitation of four alternate directors

per agency should be eliminated. We are simply unaware of any sound basis for imposing such a limitation. Additionally, as previously noted in our letter of June 8th, 2010, reference to "design professionals" is overbroad and the rules should be changed to refer to professional engineers and registered architects.

Further, the current proposal lists a series of inspections which are exempt from the "design professional" director requirement. While we concur with the exemptions applicable to an agency conducting fire alarm tests, sprinkler system inspections, stand pipe system inspections and emergency power tests, it is respectfully submitted that site storm drainage disposal and detection inspections constitute the practice of professional engineering and should not be exempt.

New York State, like the vast majority of its forty-nine sister states, provides for licensure/registration of professional engineers based on a broad license which is not discipline specific. In New York State professional engineers are required to practice only in those areas of engineering wherein the licensee is competent. Regents Rule Section 29.1 (b) (9) expressly defines unprofessional conduct to include "practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.....".

The instant proposed rule at page 9 (Section 101-06 (c) (4) Qualifications) suggests that discipline specific requirements apply to special inspections. In order to eliminate any ambiguity it is recommended that the following sentence be added as a new last sentence to paragraph 4 of this rule; "Nothing herein shall be construed to require discipline specific credentialing of special inspection agency directors." Moreover, the Appendix should be scrutinized and modified as needed, to insure that it is entirely consistent with the underlying Rules, as amended.

The provisions in the new rule pertaining to Class 3 special inspection agencies are ambiguous (Section 101-06 (c) (2) (ii) (C) (2) – top of page 9). It is recommended that item (2) be deleted – i.e. strike; "(2) The alteration of any building, including partial demolition, of less than ten thousand (10,000) square feet of gross floor area in total." And substitute; "(2) The construction, demolition, or alteration of not greater than 10,000 square feet of gross floor area in total, irrespective of the gross floor area of the entire structure. The concurrent reconstruction or alteration of an area subject to demolition shall be subject to an independent 10,000 square feet limitation."

The present proposal sets forth a new requirement respecting the maintenance of a physical office within the City of New York. (See Section 101-06 (10) – page 7.) It is respectfully requested that this requirement be modified to require an office to be located anywhere within New York State. There is no need for requiring special inspection agencies to incur the additional costs attendant to a New York City office provided they maintain a physical presence in the State.

Finally, Section 101-06 (5) (i) – page 9 sets forth a requirement respecting professional liability insurance. The provision references maintenance of a \$500,000.00 occurrence based policy. Professional design liability policies are generally available on a claims-made basis and the rule should be modified to delete reference to occurrence based policies.

NYSSPE has advanced the foregoing recommendations to insure that the local laws in New York City are consistent with State statutes. We are confident that these recommendations advance our mutual goal of protecting the health, safety and welfare of those living, working and visiting New York City. Your careful consideration is sincerely appreciated.

Very truly yours,

KRISS, KRISS & BRIGNOLA, LLP

A handwritten signature in black ink, appearing to read 'Mark C. Kriss', with a long horizontal flourish extending to the right.

Mark C. Kriss, Esq.

Counsel

***New York State Society of
Professional Engineers***

MCK/jai
Enclosure



Michael A. Cardozo, Esq.
Corporation Counsel
of the City of New York
100 Church Street
New York, New York 10007

Re: New York City Building Department - Special Inspection Agencies

June 8, 2010

Dear Mr. Cardozo;

We are in receipt of a copy of proposed amendments to rules promulgated by the New York City Department of Buildings regarding Special Inspections dated 01/29/2010 furnished by Constadino "Gus" Sirakis, PE, Director of Engineering Technical Affairs. The draft contains a number of improvements which were made in response to recommendations from local and state representatives of the New York State Society of Professional Engineers (NYSSPE). Among the changes is increased flexibility respecting credentialing for the registration of special inspector agencies, applicable to Class 2 and Class 3 special inspection classes. The credentialing amendments and the Department's decision to maintain an open dialogue respecting other recommendations, including the potential employment of the Practicing Institute for Engineering, Inc. (PIE) (a sister organization to NYSSPE) as an accrediting organization, are most welcomed and appreciated.

Concomitantly, there remains one matter which we believe needs to be addressed regarding current section 101-06 (c) (5) [proposed to be renumbered 101-06 (c) (6)], which unfortunately seemingly has reached an impasse. The problematic language reads as follows:

([5] 6) Agency Structure. The special inspection agency shall have a full time director who is a registered design professional in responsible charge and all special inspections shall be performed under his or her direct supervision. The director shall not be retained by any other agency that provides special inspection or testing services. The director shall possess relevant experience in the inspection and testing industry and hold a management position in the agency. The agency structure shall comply with all relevant New York State and Federal laws.

Pursuant to New York State Education Law [with the limited exception of some grandfathered general business corporations - see NYS Education Law section 7209 (6)], general business corporations and other general business entities, such as a limited liability companies, cannot offer to provide or provide professional engineering services – see NYS Education Law section 6512. In short, a special inspection agency engaged in the practice of professional engineering must possess either a Certificate of Authorization issued pursuant to NYS Education Law section 7210 or be a professional engineer doing business as a sole proprietor. Registered architects and authorized architectural entities can also offer to provide or provide special inspection services, but once again with the limited exception of some grandfathered general business corporation providing architectural services [see NYS Education Law section 7307 (4)], general business corporations and other general business entities cannot offer to provide

or provide special inspection services which constitute the practice of professional engineering or architecture.

The language of the rule presently fails to afford adequate warning respecting the inability of general business corporations and limited liability companies (excluding grandfathered corporations) to offer to provide special inspection services. In fact the first sentence, with its reference to a full time "registered design professional" in responsible charge is quite misleading. While registered architects and architectural firms can perform special inspections, with some exceptions, other design professionals such as landscape architects and land surveyors cannot. Moreover and just as importantly, as noted above, except for a limited number of grandfathered entities, under no circumstances can a general business corporation qualify as a special inspection agency. The first sentence can easily be misconstrued to suggest that general business corporations can qualify as Special Inspection Agencies by having a full time registered design professional in responsible charge.

The vast majority of illegal practice cases investigated by the State Education Department and referred to the State Board for Engineering and Land surveying involve the illegal offering of professional engineering services by general business corporations. There is little doubt that the language of the Rule can be substantially improved. Accordingly we recommend that Agency Structure provision cited above be amended to read:

([5] 6) Agency Structure. [The special inspection agency shall have a full time director who is a registered design professional in responsible charge and all special inspections shall be performed under his or her direct supervision. The director shall not be retained by any other agency that provides special inspection or testing services. The director shall possess relevant experience in the inspection and testing industry and hold a management position in the agency. The agency structure shall comply with all relevant New York State and Federal laws.] **Special inspection agencies must be authorized pursuant to New York State Law to offer to provide professional engineering and/or architectural services. Licensed professional engineers and registered architects who are sole proprietors acting in conformity with this section qualify as special inspection agencies. General business corporations, limited liability companies and other business entities cannot offer to provide professional engineering or architectural services, except as expressly authorized by Title VIII of the NYS Education Law (see Education Law section 7209 (6) and section 7307 (4)), Articles 15 and 15a of the NYS Business Corporation Law, Articles XII and XIII of the NYS Limited Liability Company Law or Article 8B of the NYS Partnership Law. Each agency shall have a director who is a licensed professional engineer or registered architect who shall be in responsible charge of all inspections. All special inspections shall be performed under his or her direct supervision. The director shall not be retained by any other agency that provides special inspections or testing services. The director shall possess relevant experience in the inspection and testing industry and hold a management position in the agency. The agency structure shall comply with all other relevant New York State and Federal laws....**

The foregoing draft language we believe would help to insure that only qualified entities properly supervised by a professional engineer or registered architect are vested with authority to perform special inspections. These inspections play a critical role in assuring the health, safety and welfare of New York City's residents, commuters, visitors and property owners. Every effort should be undertaken to insure that the determinations are based on the professional judgment of qualified inspectors unhindered by corporate pecuniary interests. We would welcome the opportunity to discuss the proposed amendment and alternative language which made add additional clarity.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark C. Kriss', written in a cursive style.

Mark C. Kriss, Esq
Legislative and Legal Counsel
New York State Society of Professional Engineers

CC: Gus Sirakus, PE, Deputy Director & Sr. Structural Engineer, NYC DOB
Alan Price, PE, Director Office of Technical Certification & Research, NYC DOB
James Colgate, Assistant Commissioner, NYC DOB
Alex Fisher, Senior Policy Advisor, NYC DOB
Kelly K. Norris, CAE, Executive Director NYSSPE & PIE

Queens  *Chapter*
New York State Society *of Professional Engineers*
78-66 79th Place Glendale, NY 11385 Tel No. 718.894.7822 Fax No. 718.894.7833

e-mail: gltp@msn.com 718.352.0025

OFFICERS:

GEORGE TAVOULAREAS, PE
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May 9, 2011

Michael A Cardozo, Esq.
Corporation Counsel
City of New York
100 Church Street
New York, NY 10007

**SUBJECT: NYC Dept. of Buildings- Special Inspections Agencies
Amendment to Special Inspectors and Special Inspection Agencies Rule
Reference number 2011 RG002**

Dear Mr. Cardozo:

Our Chapter is in support of the letter that was sent to you from the New York State Society of Professional Engineers detailing their concerns to the proposed amendment. Although the Department of Building's proposed amendment has improved since it was first issued, it is still lacking clarity, needs improvement and sections of the proposed rule are in violation of State law. The Chapter has reviewed the proposed rule and we have the following comments:

This Chapter and the state society strongly object to the proposed agency structure of the special inspection agency. Reference is made to page 10 where the language of the amendment does not exclude general business corporations (Incs.) from performing special inspections. Except for a limited number of grandfathered entities, under no circumstances can a general business corporation qualify as a special inspection agency in New York State. This section can be easily misconstrued to suggest that general business corporations can qualify as special inspection agencies by having a full time registered design professional in charge. Under NY State law, a professional engineer acting as a sole proprietor, professional corporations with a Certificate of

Authorization and the limited grandfathered corporations are the only entities that can provide professional engineering services in New York State. The Agency structure section of the proposed amendment must be changed to comply with state law and discourage illegal practice.

Appendix A of the approved rule splits the Engineering professions by disciplines and violates NY State law. New York State law does not distinguish between disciplines and permits engineers to practice in the field of engineering in which they are competent. Appendix A and the qualification section on Page 9 must be changed to reflect New York State law.

The New York State Board of Engineering and Land Surveying has determined that special inspections is the practice of engineering/architecture and the Board's letter is attached for your reference. However, Appendix A of the proposed rule still allows plumbers (non-installer) to approve installations performed by other plumbers on drywells, sprinklers and standpipes by signing the TR forms. Electricians (non-installer) are also allowed to signoff and approve power systems and fire alarm system installations performed by the installing electrician. Allowing tradespeople to sign off on work performed by other tradespeople will endanger the safety and welfare of the general public. The Fire Department of the City of New York stopped allowing electrical contractors to self certify FDNY fire alarm Letter of Defects as of January 1, 2011 because the FDNY found that many electrical contractors were not performing the corrective work and were falsifying FDNY self certification documents asserting that the repairs were done.

Furthermore, we cannot comprehend why the Building Dept. would allow "other" contractors to sign off on contractor installations when these "other" contractors cannot obtain errors and omissions insurance. The property owner will have no financial recourse for an approval made by the "other" contractor as a result. Registered design professionals (registered architects and professional engineers) according to the proposed rule will be required to carry errors and omissions insurance and the property owner will be able to be made whole through the insurance carrier if a registered design professional makes a mistake.

All special inspections involve the evaluation of field conditions with the approved plans and the NYC Construction Codes. Registered design professionals are the objective third party that will ensure compliance. Appendix A should be modified to exclude tradespeople from performing these inspections and signing the TR-1 forms.

Page seven requires special inspection agencies to have a NYC address. This requirement will limit the number of qualified special inspection agencies who will be able to perform special inspections. This in turn will increase the costs of construction in the City of New York by limiting the number of firms that can do this work and cause more hardship to an already hard hit construction industry.

The errors and omissions requirements on page 9 is not readily available in New York state. A reputable insurance broker has informed us that 99% of all policies are written on a claims made

basis not occurrence base. I have attached a letter from ProSurance Redeker Group, an insurance firm with more than 40 years of experience in the insurance industry for your review.

Please feel free to call me to discuss these issues. I can be reached at 718 352.0025.

Sincerely,

George Tavoulaareas, PE
President
Queens Chapter New York State Society of Professional Engineers
www.nspequeens.org

w/attachments

CC: Tom Fariello, RA 1st Deputy DOB Commissioner
Alan Price, PE NYC Dept. of Buildings
Maththew Margolin, Mayor's Office of Operations
Chief Pickett, FDNY
Chief Jensen, FDNY

May 9, 2011

Mr. Alan Price
Director of OTCR
Department of Buildings
280 Broadway
New York, NY 10007

Re: Department of Buildings
Special Inspectors / Special Inspection Agencies

Dear Mr. Price:

I am commenting on behalf of the proposed rule amendment relating to Special Inspectors and Special Inspection Agencies.

The Prosurance/Redeker Group has over 40 years experience representing both Consulting Engineers and Architects, and we are considered experts in the field of Professional Liability Insurance.

My comments relate to the proposed amendment to the DOB rule relating to Special Inspectors and Special Inspection Agencies, specifically section 5.

The specification stipulates that professional liability is a required policy, the limits must be at least \$500,000 and that the policy must be "occurrence based". In insurance nomenclature, an "occurrence based" policy form would be a policy that provides coverage for claims that "occurred" during the policy period. Coverage would be available (subject to the limit of liability) at any time during or after the policy term without a time limitation. Engineers Professional Liability Insurance is offered in "claims-made" policies. A claims-made policy limits the availability of coverage for claims that result from services (acts) performed during the policy term, provided the claim is first reported during the same annual policy term.

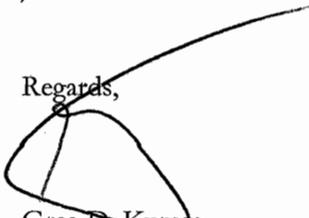
The policy described in section 5 (i) would be an "occurrence" policy and this type of policy is not available for firms domiciled in NYS.

To enable Special Inspection Agencies to comply with the professional liability insurance requirement, section 5 insurance (i) should be amended as follows:

- (i) Professional Liability errors and omissions insurance policy for the minimum amount of five hundred thousand dollars (\$500,000) per claim one million (\$1,000,000) annual aggregate, claims-made based for the term of the registration.

To my knowledge, Engineers (Architects) will be unable to obtain professional liability insurance which is occurrence based.

Regards,


Greg D. Kuman

GDK:kam



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK
OFFICE OF THE PROFESSIONS
89 WASHINGTON AVENUE
ALBANY, NY 12234-1000

State Board for Architecture
Tel. 518-474-3817 Ext. 110
Fax 518-486-2981

E-mail: archbd@mail.nysed.gov
Web: www.op.nysed.gov

State Board for Engineering and Land Surveying
Tel. 518-474-3817 Ext. 140
Fax 518-473-6282

E-mail: enginbd@mail.nysed.gov

August 20, 2009

Mr. Constadino "Gus" Sirakis
Acting Director of Engineering Technical Affairs
New York City Department of Buildings
280 Broadway, 7th Floor
New York, New York 10007

RE: Special Inspections

Dear Mr. Sirakis:

We write as a follow-up to our May 2009 conference call where we discussed the Department of Buildings' adoption of new Section 101-06 to Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding special inspections and the qualification of these special inspectors.

The New York State Education Department - Office of Professions (Department) and the State Boards for Engineering & Land Surveying and Architecture have reviewed Section 101-06 and also Chapter 17 - Structural Tests and Special Inspections from the 2008 New York City Building Code provided by you subsequent to our conference call in May.

After a careful review of the above documents and lengthy discussion, the State Board of Engineering and Land Surveying at their June 2009 Board meeting, voted unanimously to recommend to the Department that the Special Inspections as defined in Chapter 17 and Section 101-06 of the Rules on the City of New York fall within the scope of practice for engineers as defined in Education Law, Articles 145. Likewise, the State Board for Architecture at their July 2009 Board meeting, also voted unanimously to recommend to the Department that the Special Inspections as defined in Chapter 17 and Section 101-06 of the Rules on the City of New York fall within the scope of practice for architects as defined in Education Law, Articles 147. With unanimous support from the Boards, and consultation with our attorneys and senior management within the Department, we believe that all special inspections as currently defined should be performed by the appropriate licensed (and currently registered) design professional.

We applaud the efforts of the NYC Department of Buildings to put in place consistent standards for the qualification of Special Inspectors that will enhance public safety and the integrity of the

construction process. Specific qualifications will help to ensure that the Special Inspectors have the appropriate knowledge, expertise, and experience, to perform this very critical step in the design and construction process and support the requirement that they sign and seal the Technical Report – Statement of Responsibility document.

We appreciate the opportunity to discuss this very important scope of practice issue related to the design professions and look forward to future discussions on issues where we may work together to further enhance the protection of the public.

If you have any questions, please do not hesitate to contact me or Robert Lopez at the contact information provided above.

Sincerely,



Jane Blair, PE
Executive Secretary



Robert Lopez, RA
Executive Secretary

C: Frank Munoz – Associate Commissioner



Society of Fire Protection Engineers International New York Metro Chapter

May 11, 2011

Mr. Alan Price, P.E.
Director of OTCR
NYC Department of Buildings
280 Broadway, 7th floor
New York, NY 10007

RE: Special Inspection Qualifications.

Dear Mr. Price:

Society of Fire Protection Engineers - Metropolitan New York Chapter is a not-for-profit organization representing more than 100 Fire Protection Engineers and other fire protection Professionals conducting business in New York City. We are affiliated with the Society of Fire Protection Engineers International - the largest and most respected organization of fire protection engineers in the world.

Back in 2008 we have reviewed the "Special Inspections - April 2008 Update" and "Special Inspection Qualification Guide – DRAFT" dated 4/21/2008, both located on the DOB web site.

These two drafts attempted to establish criteria for people and companies that under the new code will be allowed to perform controlled inspections (construction inspections) of new systems and installations in lieu of the Department of Buildings and/or Fire Department inspectors.

Upon careful review of these documents, we submitted our comments on June 20, 2008. Copy of our 2008 comments is enclosed.

The next set of rules for Special Inspections was published for comments in the City Record on June 7, 2010 and a public hearing held on June 8, 2010. Please note that most of our 2008 comments were never implemented. Society of Fire Protection Engineers - New York Metropolitan Chapter responded with a letter to you dated July 7, 2010 (copy enclosed).

Recently we received the third version of the Proposed Rule Amendment for our review, and prior to the public hearing scheduled for May 11, 2011. Again, this document never implemented our 2008 and 2010 comments.

This new two document attempts to establish criteria for people and companies that under the new 2008 Building, Mechanical, Plumbing and Fire Codes will be allowed to perform Special Inspections (construction inspections) of new systems and installations in lieu of the Department of Buildings and/or Fire Department inspectors.

Upon careful review of these documents, we have the following comments:

1. We believe that the Agency structure must comply with all relevant NY State laws. Since under the NY State Education laws Special Inspections proposed by the Department of Buildings clearly fall under definition of practice of engineering and/or architecture, such practice shall be performed only by authorized entities: individual self-employed P.E.s / R.A.s, Professional Services Corporations (P.C.) or a small amount of "grandfathered" Inc. Corporations. This position is consistent with the June 25, 2010 letter from the New York State Society of Professional Engineers to you (copy attached).
2. Since Special Inspections are clearly considered a practice of Engineering and/or Architecture, Special Inspectors shall be limited to qualified registered design professionals (NY State licensed P.E.s and R.A.s).
3. We believe that all Special Inspection Agencies shall carry Professional liability/errors and omissions insurance policy. We do not believe that proposed exclusions of Agencies performing inspections of fuel-oil storage and piping, fire alarms, sprinkler systems, standpipe systems, emergency power systems serves the best interest of the residents of New York City. This exclusion could also expose the NYC Department of Buildings to a substantial liability due to accepting special inspection reports for such important and life-saving systems from uninsured entities.
4. We believe that a requirement for a NYC address under Art. 101-06(b)(10) is considered a restriction of trade, by not allowing qualified companies licensed in New York State but located outside of the 5 Boroughs of new York City to perform services in New York City.
5. Inspection of sprinkler and standpipe systems is clearly a practice of Fire Protection Engineering. As you know, a PE license in New York State is issued without a specific field of engineering the licensee is allowed to practice in. Years ago, applicants taking Part II of the PE exam were even allowed to choose engineering problems from any field of engineering. Professional Engineer's stamp in New York does not indicate the field he/she is allowed to practice in. In addition, the field of Fire Protection was recognized by the NY State Education Department only a few years ago. Based on the above, it does not make practical sense to indicate the "PE - Mechanical Engineering" in the qualification chart.
6. Furthermore, we believe that NYC Licensed Class A Master Fire Suppression Piping Contractors shall not be allowed to inspect 'other contractor' installations. Please note that at one point of time, this license was "grandfathered" to existing licensed plumbers, without verifying their knowledge of sprinkler and standpipe systems. Also, inspection of a fire sprinkler or standpipe system includes not only the piping, tanks and sprinkler head locations, but also fire pumps (with their electrical power and controls), installed by a Licensed Electrician. Based on the above, we believe that only Licensed Professional Engineers shall be authorized as Primary Inspectors. This is consistent with the New York State Education Department position letter to Gus Sirakis of OTCR dated August 20, 2009 (copy attached).
7. Fire Alarm Test (when FDNY inspection not required): We believe that only Professional Engineers as Primary Inspectors and NICET Level III Technicians as Supplemental Inspectors

shall be allowed to conduct inspections of fire alarm systems (see justification for sprinkler and standpipe systems above).

Please note that the 2008 NYC Fire Code allows only Licensed Design Professionals (and not the Electricians) to conduct "Professional Certifications" of extensions of existing approved fire alarm systems. Therefore, this proposed Qualification is in contrary to the NYC Fire Code.

Furthermore, Electrical Contractors shall not be allowed to perform construction inspections of their own installations, or installations done by their competitors. This is especially critical in case of fire alarm systems, where the electrical contractor only installs the wiring for fire alarm systems. Please note that there are numerous contractors involved in fire alarm installation:

- * wiring and back boxes are installed by the electrical contractor,
- * fire alarm panels are provided and programmed by the fire alarm vendor,
- * central station transmitters are provided and programmed by the central station company,
- * tie-ins for elevator recall and elevator communication are done by the elevator contractor,
- * tie-ins to the HVAC units and dampers for shut-down are done by the HVAC contractor,
- * tie-ins to the HVAC units and dampers for smoke exhaust are done by the HVAC contractor,
- * tie-ins to the Building Management System (BMS) are done by the BMS contractor,
- * tie-ins to the sprinkler system (waterflow and tamper switches) are done by the sprinkler contractor.

In addition, Licensed Electricians are not trained in the field of fire alarm systems; even the examination for a Master Electrician in NYC does not include any questions related to the fire alarm systems.

Also, please note that due to a substantial amount of false self-certifications of fire alarm letters of defect (mostly by electrical contractors, as we were told), on December 31, 2010 NYC Fire Department Bureau of Fire Prevention eliminated the entire self-certification process. Please note that the Professional Certification of fire alarm system extensions by Licensed Design Professionals remains in effect and is considered quite successful.

8. Emergency Power Systems: we believe that only Professional Engineers as Primary Inspectors shall be allowed to conduct inspections of Emergency Power (see justification for sprinkler and standpipe systems above).

Furthermore, Electrical Contractors shall not be allowed to perform construction inspections of their own installations, or installations done by other contractors. This is especially critical in case of emergency power systems, where the electrical contractor only installs the wiring for generators. Please note that there are numerous contractors involved in Emergency Power installation:

- * Emergency Generator is typically delivered and installed by the General Contractor or Mechanical Contractor
- * Fuel Oil Contractor provides the fuel tank, day tank, fuel transfer pump etc.
- * Electrical wiring is then completed by the Electrical Contractor
- * Monitoring of the Emergency Power System by a Central Station is then completed by the Fire Alarm Contractor.

9. Art. 5 Insurance requires a \$500,000 Professional liability/errors and omissions insurance for all inspection agencies, EXCEPT those agencies that will conduct inspections of Life Safety Systems (fire alarm systems, sprinkler systems, standpipe systems and emergency power systems).

We believe that allowing uninsured entities to inspect Life Safety Systems not only puts the general public in danger, but will also expose the NYC Department of Buildings, as an agency accepting the Special Inspection reports, to an unnecessary liability in case of a failure of such Life Safety System and a potential loss of life and property damage.

There are hundreds of Licensed Professional Engineers in New York metropolitan area, specializing in design and inspections of Fire Protection and other Life Safety Systems. Many of them are also Professional Members of the Society of Fire Protection Engineers, which qualifies them as Fire Protection Engineers.

There are also over 20,000 individuals certified by NICET in fire protection technology; many of them in the NYC metropolitan area. NICET is a non-profit division of the National Society of Professional Engineers. For more information, please refer to www.nicet.org

Therefore, we believe that there is no shortage of qualified Professional Engineers and NICET Certified engineering staff under their supervision to perform Special Inspections of fire protection systems and there is no need to allow uninsured and in many cases unqualified contractors to perform such inspections.

We hope that the above comments will be helpful to you and will ensure that only qualified individuals and entities will be performed Special Inspections in New York City.

Respectfully yours,

Zygmunt Staszewski P.E., FSFPE
President
Society of Fire Protection Engineers
New York Metropolitan Chapter

cc: Mr. Matthew Margolin - NYC Mayor's Office of Operations
253 Broadway, 10th floor, New York, NY 10007

Mr. Steven Goulden, Acting Corporate Counsel
NYC Law Department, Division of Legal Counsel
100 Church Street, New York NY 10007

New York State Education Department, Division of Licensing

National Society of Professional Engineers - Manhattan, Queens, Brooklyn, Bronx and Staten Island Chapters

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May 10, 2011

James P. Colgate
Assistant Commissioner for Technical Affairs and Code Development
NYC Buildings Department
280 Broadway – 7th Floor
New York, NY 10007

RE: Draft Rule – Special Inspectors and Agencies

Mr. Colgate:

The Architects Council appreciates this opportunity to comment on this draft of a future Rule afforded by the Department of Buildings, and is happy to lend use of our construction knowledge and experience to aid in the implementation of the construction codes and protection of the public.

The Architects Council has reviewed your draft rule on Special Inspectors and Agencies, and has the following comments:

Page 3: "New "Small Projects" Category

The permitted 10,000 sf alterations should be clarified to say "any" use, ie: residential, commercial, or industrial.

Page 10: Section [(5)] (6) Small Building Exception

Any professional should be permitted to do soil investigation involving soil test pits.

The current verbiage under this section also does not correlate to the verbiage in the "Appendix A" where "soil investigation: was excluded, thus, could be done by non-special inspector, or agency.

Sincerely,

Kim Lee Vauss
Chairperson
Building Code, Rules & Regulations Committee, ACNY



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April 27, 2011

NYT

Bloomberg's Big Push for an Applied Sciences School

By JAVIER C. HERNANDEZ

The mayor of New York does not usually take time from his schedule to mingle with academic deans from Finland. But there was Michael R. Bloomberg at the Metropolitan Museum of Art recently, trying to sell the foreign visitors on his next big idea: a top-flight applied sciences school for the city.

As he seeks to revive his flagging third term, Mr. Bloomberg has taken a strong personal interest in the project, embarking on a campaign-style effort to lobby university leaders and business executives.

Such a school, envisioned as one of the largest development projects in the city's history, could transform the local economy and help burnish his image as a financial steward.

The idea is one of the more imaginative proposals to come out of Mr. Bloomberg's City Hall, but it may also be among the riskiest. The city has pledged to offer capital and public land to the university that drafts a winning proposal; 27 institutions — including Columbia, Stanford and the Korea Advanced Institute of Science and Technology — have signaled their interest.

Critics have deplored the city's willingness to offer incentives at a time of economic distress. And the mayor has angered local university leaders with his suggestion that New York lacked a top-tier engineering school.

They argue that the city should instead use its resources to help expand existing programs.

"In a period of economic crisis, when we are so tight with our budget, we should not be giving incentives to private institutions," City Councilman Ydanis Rodriguez of Manhattan said. "We have great programs here."

Still, the idea has piqued the attention of the academic world, which has rarely seen a city so eager to recruit an institution of higher education. And the mayor's personal involvement appears to be a significant factor.

Kathryn S. Wylde, president of the Partnership for New York City, a group of business leaders that has supported the effort, said university leaders were keenly aware of the mayor's clout as a philanthropist and his record as an entrepreneur.

"He's not your average hometown mayor," Ms. Wylde said. "His personal credibility in all sectors relevant to higher education is a huge attraction for the academic world."

George Campbell Jr., president of the Cooper Union, which was one of the institutions that submitted a proposal, said: "There's no question that he's a big factor. He clearly understands the importance of this area."

Stanford officials have embarked on one of the more aggressive efforts to woo the city. They propose building a campus costing more than \$1 billion that would be home to 2,200 graduate students and 100 professors.

"When the mayor made the announcement, there was some real enthusiasm," said John L. Hennessy, Stanford's president.

The city, in return, has said it may be able to offer \$100 million or more in capital, perhaps through investments in infrastructure or loans, according to a state lawmaker briefed on the matter, who spoke on the condition of anonymity to preserve his relationship with city officials.

The idea for an applied sciences school came in the aftermath of the financial crisis as city officials looked for ways to make the economy less dependent on Wall Street. They saw potential in the applied sciences, which include engineering, physics, computer science, chemistry, mathematics and environmental science.

"There are industries that are here that are just not growing as fast as they could be, and there are industries that aren't here but could be here," said Seth W. Pinsky, president of the city's Economic Development Corporation.

Compared with Boston, a hub of higher education, New York lags far behind in engineering, with nearly half the number of professors and a small fraction of the research money per faculty member. None of the city's graduate engineering schools are listed in the top 10 in the U.S. News & World Report rankings; the closest is

April 27, 2011

Columbia, at No. 16. Each year, a steady tide of engineering graduates flows from New York schools to start-ups in California.

But exactly how to invigorate applied sciences in the city has provoked debate even as the idea has won support from politicians and large corporations like Google.

The city is already home to several engineering programs, including Columbia's Fu Foundation School of Engineering and Applied Science, the Polytechnic Institute of New York University, the Cooper Union and the Grove School of Engineering at the City College of New York.

Columbia, joined by the City University of New York, has proposed a 1,200-student, 80-professor institute for communication technologies in West Harlem. N.Y.U., joined by CUNY, Carnegie Mellon, the University of Toronto and I.B.M., has suggested a center for urban science that would be home to 300 students and 100 researchers in Brooklyn or on Roosevelt Island.

Some university officials worry that involving a university from outside the city would hamper the efforts of hometown institutions to recruit faculty members.

In N.Y.U.'s proposal to the city, a copy of which was obtained by The New York Times, officials for the university, which is planning an expansion of its engineering programs in Brooklyn, wrote. "A 'start from scratch' approach that parachutes a new player into New York without the requisite ingredients that lead to success has the potential to be a waste of resources."

The reaction was similar at Columbia, which is planning an expansion into Manhattanville.

William A. Zajc, chairman of Columbia's physics department, said the idea for an applied sciences school was a "field of dreams venture."

"We're being asked to believe you can create a new major research facility out of vacant real estate?" Dr. Zajc said. "Silicon Valley didn't spring up because Santa Clara or Palo Alto went out and solicited proposals for an engineering center. They relied on existing strength."

Mr. Pinsky said the city would happily partner with New York schools if they suggested ideas that "moved the needle."

Some have faulted the city for not clearly articulating how it might recover some of its investments if the school does not turn out to be the economic engine that the mayor expects. Some academic leaders say the money would be more wisely spent on helping young engineers start businesses after they graduate.

Mr. Pinsky said the city would soon formally evaluate the costs and potential benefits of an applied sciences school. "We're not entering this assuming failure," he said. He said investing in infrastructure would help the city recover from the economic downturn.

The city is expected to choose a university by the end of the year, and construction could begin soon after.

Mr. Bloomberg, who majored in electrical engineering at Johns Hopkins University, will presumably be long retired from public office when the school is completed. That has not stopped speculation that he may one day lend his philanthropic support to the endeavor.

"If this were like Saudi Arabia and somebody committed \$300 million up front," Dr. Campbell of Cooper Union said, "this could get done much quicker."

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