



## Memorandum

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**PREPARED BY:** Stanford Chan, RA, AIA

**SUBJECT:** "Handrails and Guard Assemblies" Inspection – 7<sup>th</sup> Cycle FISP Compliance

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This memo is to inform you of the amendment to the Façade Inspection Safety Program (FISP), formerly known as Local Law 11/98, with respect to inspections of existing "Handrail and Guard Assemblies: Balconies." Attached is a memo from the DOB (**dated May 5, 2014**) issued to practitioners and those in the industry to inform building owners and managers of the requirements. The amendment was made to the ordinance a number of years ago in response to a tragic fatality resulting from an unsafe balcony. The DOB's memo reiterates the urgency and importance of the inspections after another balcony-related death occurred last summer.

The following "Fact Sheet" is our interpretation of the amendment, the DOB memo and the DOB industry meetings we attended, including one that was held at the Vidaris office. If you have not yet complied with the 7th Cycle FISP "Handrails and Guard Assemblies" amendment, please contact Vidaris so we may prepare a proposal(s) based on an agreed scope of work for each of your buildings.

**END OF MEMO**

**Attachments:** DOB Letter dated May 5th, 2014  
Article 301 from NYC DOB CODE



**FACT SHEET:**

The amendment to the NYC Rule 103-04, Section (b) (3) (iii) (G) states: “...Balcony railings must be inspected to ensure that their components (balusters, intermediate railings and panel fillers) are positively secured against upward movement (e.g. by welds, bolts or screws). If any balcony enclosure is found not to be positively secured, the condition is classified as unsafe and must be made safe pursuant to the requirements of paragraph (5) of subdivision (b) of this section. In the event a cycle seven report has already been filed with the Department pursuant to paragraph (4) of this subdivision, **a separate report regarding the condition of the balcony enclosures must be filed within cycle seven.**”

Please find below the minimum requirements for complying with the 7<sup>th</sup> Cycle FISP filing, along with our interpretation/recommendations for proceeding with the inspections and filings:

1. The DOB reiterated that in the NYC Building Code, under “**Article 301 GENERAL, 28.301.1 Owner’s responsibilities. All buildings and all parts thereof and all other structures shall be maintained in a safe condition...**” (see attached for full paragraph). Regardless of any other code sections and local laws, it is always the Owner’s responsibility to maintain a “safe” condition for their buildings.
2. Regardless of whether a 7<sup>th</sup> Cycle FISP report has been filed/accepted, a separate report/letter is to be submitted by February 2<sup>nd</sup>, 2015, stating that inspection of guard rails for structural stability (including fire escapes) has been performed. The report/letter should state the status of the railings (including the total number of building guard railings and number of railings inspected). The Owner is to sign supplemental report/letter.
3. If the status will be changed from the initial 7<sup>th</sup> Cycle filing, a Subsequent or Amended Report (with the TR-6 DOB form) is to be filed. If the status is downgraded to “Unsafe,” a FISP 3 form is required to be submitted to the DOB and public safety must be addressed immediately.
4. If a building does not have any guard rails, a supplemental report is not required.
5. The extent and scope of inspection is to be determined by the Professional (QEWI) and to be based on observations made during the inspection.
6. Railings can be checked for structural load Code compliance (with the applicable Code) during construction. The Professional (QEWI) will determine whether the check is to be performed with calculations and/or field testing.
7. “Balcony Enclosures” are to be checked for whether there was a work permit filed for the enclosure and inspection of the enclosure is to be included.

**END OF FACT SHEET**



Thomas Fariello, RA  
Acting Commissioner

Timothy D. Lynch, P.E.  
Assistant Commissioner  
Investigative Engineering  
Services  
[timlynch@buildings.nyc.gov](mailto:timlynch@buildings.nyc.gov)

280 Broadway Rm 419  
New York, NY 10007  
[www.nyc.gov/buildings](http://www.nyc.gov/buildings)

212-393-2024 tel

## Memo — Final

**To: FISP Consultants, Building Managers and Owners. Industry Update.**

**From: Assistant Commissioner Timothy D. Lynch, P.E.,**

**Date: May 5, 2014**

**Re: FISP Cycle 7 report: Handrail and Guard Assemblies: Balconies.**

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This memo supersedes the FISP memos of September 6, 2013 and December 3, 2013.

### **1.0 Introduction:**

This memo is supplemental information in response to questions received by the DOB Façade Unit (FISP Unit) regarding handrail and guard assemblies and in particular, balcony inspections. In May 2013, the Department amended Rule §104-03. Handrails and guards, especially those found on balconies, are to be inspected and checked for structural integrity. The building owners are required to submit to the FISP Unit, a statement in the form of a letter indicating that the handrail and guard assemblies have been inspected and they have been found to comply with SAFE, UNSAFE or SWARMP status. The FISP Unit requirement for the letter statement regarding the Guards and Handrails and in particular balcony inspections applies to Cycle 7. Cycle 7 FISP inspections close out on Feb 20<sup>th</sup> 2015. The Guard and Handrail letter statements are to be submitted no later than **February 2, 2015**. Letter statements are to be signed/sealed by the QEWI and signed by the owner or owner's representative. After Feb 21<sup>st</sup>, 2015, Cycle 8 commences and the inspection requirements will be incorporated into the FISP Cycle 8 report. This memo presents no changes to Rule §103-04 amended May 17, 2013; Section (b)(3)(iii)(G), "Periodic Inspection of Exterior Walls and Appurtenances of Buildings"

Handrails and guards are most typically found on the following building elements: balconies, terraces, exterior walkways, exterior corridors, roof handrails and guards and fire escapes. Generally, these elements are to be checked for their structural soundness. For issues of code compliance, we note the provisions in the 2008 Administrative Code that permits the lawful use of existing buildings based on the codes under which the buildings were constructed.

### **2.0 Code, Rules, Regulations, Bulletins and Memos:**

The following NYC Building Code Sections apply to this memo for code compliance of public safety:

1. 2008 Rule - 1 RCNY § 103-04 amended 05-17-13.
2. 2008 General Administrative Provision, §28-301.1 Owner's responsibilities.
3. 2008 Building Code, Chapter 10, Means of egress, §28-1002.1 Definitions.
4. 2008 Building Code, Chapter 16, §28-1602.1 Definitions.
5. 2008 NYC Fire Code, Chapter 10 Means of Egress §FC 1027, Maintenance of the means of egress,

The following NYC Building Code Sections apply to this memo for structural stability:

1. 2008 Building Code § 1607.7.1 Handrails and guards,
2. Building Bulletin 2011-017, Balcony, railing, loading requirements,



3. 2008 Building Code, Chapter 16, Structural design, §28-1607.7.1 Live loads, Definitions,
4. 1968 Building Code, Article 3, Live loads, §27-558 (b) Railings and parapets,  
[http://www.nyc.gov/html/dob/html/codes\\_and\\_reference\\_materials/code\\_internet.shtml](http://www.nyc.gov/html/dob/html/codes_and_reference_materials/code_internet.shtml)
5. 1922 Building Code, Article 3, Working Stresses and Loads §50.2 Factors of safety.

The following NYC Building Code Sections apply to this memo for code compliance:

1. 2008 Building Code, Chapter 7, Fire-resistance, § 704.11.1 Parapet construction.
  2. 2008 Building Code, Chapter 10, Means of egress, §28-1012.2 Guards.
  3. 1968 Building Code, §27-369 (f) Exterior corridors,
  4. 1938 Administrative Building Code, §26-444.0 Parapet Walls,
  5. 1922 Building Code, Article 13, Masonry Construction §259 Parapet walls.
  6. 1899 Building Code, § 43.Parapet Walls, §103 Fire-escapes.
  7. June 17, 1976 memo, Balcony Enclosures
- These testing issues apply to the Memo:  
Load tests are covered in the Bulletins 2011-017  
Load testing, pull testing, destructive and non-destructive testing can be performed.

### **3.0 Statement letter:**

#### **Protocol for submittal of supplemental report per Section (b)(3)(iii)(G)**

1. Statement can be in letter format signed by the QEWI and owner. The signed/sealed statement is to be submitted to the DOB Façade Unit by **February 2nd, 2015**. The statement may be submitted to the FISP Unit by regular mail or be dropped off at the counter on 4<sup>th</sup> floor of 280 Broadway. There is no fee associated with this report. Be sure to include BIN, Control number, Block/Lot, total number of balconies on building, total number of balconies inspected, and location of inspected balconies. Statement shall include total areas of inspected terrace/s, walkway/s, corridor/s, fire escapes, roof, and setback/s, etc.
2. If there are no balconies or handrails/guards on building, including fire escapes, no supplemental report is required.
3. Please note that there may be instances where the guards and handrails are structurally stable but did not originally conform to the applicable code under which the building was originally constructed or afterwards altered. In these instances, the QEWI shall notify the client and refer to these items in the FISP report with a course of action to be implemented and addressed by closure of Cycle 8 for the buildings BIN number.

Per the intent of Rule §103-04, structural soundness of handrails and guards must be given a status of Safe, SWARMP, or Unsafe. Code compliance can be stated for handrails and guards. If handrail and guard assemblies were non-compliant at the time of original construction, the condition remains non-compliant per code upon which building was erected (as opposed to subsequent codes and current codes). Note that unless substantially altered, code compliance is to comply with the 2008 Administrative Code provisions that permits the lawful use of existing buildings based on the codes under which the buildings were constructed.

### **4.0 Initial Amended and Subsequent Reports**

For FISP reports filed before the close-out of Cycle 7 on February 20, 2015, the Handrail and Guard statement may be incorporated into the report as an Appendix.

Timothy D. Lynch PE



## CHAPTER 3

# MAINTENANCE OF BUILDINGS

### ARTICLE 301 GENERAL

**§28-301.1 Owner's responsibilities.** All buildings and all parts thereof and all other structures shall be maintained in a safe condition. All service equipment, means of egress, materials, devices, and safeguards that are required in a building by the provisions of this code, the 1968 building code or other applicable laws or rules, or that were required by law when the building was erected, altered, or repaired, shall be maintained in good working condition. Whenever persons engaged in building operations have reason to believe in the course of such operations that any building or other structure is dangerous or unsafe, such person shall forthwith report such belief in writing to the department. The owner shall be responsible at all times to maintain the building and its facilities and all other structures regulated by this code in a safe and code-compliant manner and shall comply with the inspection and maintenance requirements of this chapter.

### ARTICLE 302 MAINTENANCE OF EXTERIOR WALLS

**§28-302.1 General.** A building's exterior walls and appurtenances thereof shall be maintained in a safe condition. All buildings greater than six stories shall comply with the maintenance requirement of this article.

**Exception:** The requirements imposed by this article shall not apply to any part of an exterior wall that is less than 12 inches (305 mm) from the exterior wall of an adjacent building.

**§28-302.2 Inspection requirements.** A critical examination of a building's exterior walls and appurtenances thereof shall be conducted at periodic intervals as set forth by rule of the commissioner, but such examination shall be conducted at least once every five years. No later than January 1, 2009 the commissioner shall by rule establish staggered inspection cycles for buildings required to comply with this section. The initial examination for a new building shall be conducted in the fifth year following the erection or installation of any exterior wall and/or appurtenances as evidenced by the issuance date of a temporary or final certificate of occupancy or as otherwise prescribed by rule.

1. Such examination shall be conducted on behalf of the building owner by or under the direct supervision of a registered design professional with appropriate qualifications as prescribed by the department.
2. Such examination shall include a complete review of the most recently prepared report and an inspection.
3. Such examination shall be conducted in accordance with rules promulgated by the commissioner.

**§28-302.3 Immediate notice of unsafe condition.** Whenever a registered design professional learns of an unsafe condition

through a critical examination of a building's exterior walls and appurtenances thereof, such person shall notify the owner and the department immediately in writing of such condition.

**§28-302.4 Report of critical examination.** The registered design professional shall submit a written report to the commissioner within 60 days of completing the critical examination, but not more than five years following submission of the preceding report of critical examination, certifying the results of such critical examination as either safe, unsafe or safe with a repair and maintenance program. The report shall clearly document the condition of the exterior walls and appurtenances thereof and shall include a record of all significant deterioration, unsafe conditions and movement observed as well as a statement concerning the watertightness of the exterior surfaces. Such report must be professionally certified by such registered design professional.

**§28-302.5 Repair of exterior walls, unsafe condition.** Upon the notification to the department of an unsafe condition, the owner, the owner's agent or the person in charge shall immediately commence such repairs, reinforcements or other measures as may be required to secure public safety and to make the building's exterior walls or appurtenances thereof conform to the provisions of this code.

1. All unsafe conditions shall be corrected within 30 days of filing the critical examination report.
2. The registered design professional shall reinspect the premises and file an amended report within two weeks after the repairs have been completed certifying that the unsafe conditions of the building have been corrected.
3. The commissioner may grant an extension of time of up to 90 days to complete the repairs required to correct an unsafe condition upon receipt and review of an initial extension application submitted by the registered design professional together with such additional documentation as may be prescribed by rule.
4. The commissioner may grant further extensions of time to complete the repairs required to remove an unsafe condition upon receipt and review of an application for a further extension submitted by the registered design professional together with such further documentation as may be prescribed by rule.

**§28-302.6 Safe condition with a repair and maintenance program.** The registered design professional shall not file a report of a safe condition with a repair and maintenance program for the same building for two consecutive filing periods unless the second such report is accompanied by his or her professional certification attesting to the correction of all conditions identified in the prior report as requiring repair.