



NEW YORK STATE SOCIETY OF PROFESSIONAL ENGINEERS  
**BRONX COUNTY CHAPTER**

*Birth Place of the Society*

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May 5, 2008

The Members of the City Council  
Via Email or Fax

The Honorable Michael R. Bloomberg  
Via FAX (212) 788-2460

Re: Requirements for the Position of NYC DOB Commissioner

Ladies and Gentlemen:

I am writing to voice my objections to the proposed changes to the City Charter that would allow the Commissioner of the Department of Buildings to be an individual without a license as a design professional, that is, either a Professional Engineer or a Registered Architect. I am urging you to deny these changes, and, in fact, to move the charter in the opposite direction, towards more licensure requirements in the department. My comments will focus on the instance of Professional Engineer, but apply as well to the instance of a Registered Architect.

The New York State Education Law (excerpts attached) defines the practice of engineering quite clearly as it relates to buildings and the built environment. It undertakes to provide strict requirements for practitioners who are providing, consulting on, or overseeing the practice of engineering in order to protect the health, safety, and welfare of the public; to provide for a level of professional competence; and to ensure the ethical practice of the profession. It does not do so lightly or for whimsical reasons. It describes licensing requirements that include education, experience, testimony of peers as to competency and ethics, as well as testing.

Its definition clearly encompasses the responsibilities of the Commissioner of Buildings as those are described in the City Charter. The Charter (excerpts attached) charges the Commissioner with making final decisions regarding all aspects of buildings and the built environment in the city. The Charter does not describe an administrator, it describes a licensed design professional. It does so with good reason; a non-licensed person should not be in a position to over-ride technical decisions made by licensed design professionals, nor to set policy that reaches into the technical aspects of the design of the built environment.

The argument has been made in the past that the Commissioner can be an

administrator and not a licensed professional. The actions of administrators of this type have demonstrated that this is not the case. They have over-ruled the technical decisions of the licensed professionals under them, essentially practicing engineering without a license, and endangering the public thereby.

I have attached information on the current senior management of the DOB. In the entire team there is only one licensed design professional, Fatma M. Amer, P.E. Many of the team are lawyers or have liberal arts educations. Marilyn King-Festa, is listed as having been Senior Consulting Architect at the Illinois Department of Children and Family Services, but her education is shown as Bachelor of Science degree in Mathematics and Computer Science from the University of Houston in Texas. I do not know anything about Ms. King-Festa other than what is on the DOB website, but I do not understand how she could have held a position as an architect with that educational background. It appears that this title may have been an information technology title, rather than an architecture title. This disparity certainly speaks to me of the need for NYC to comply with the NYS education laws regarding the practice of the professions.

I cannot help but wonder if at least some of the recent problems in the city's construction sites derive from the paucity of licensed design professionals in the senior management of the DOB.

I urge you to not enact the proposed changes in the City Charter and thank you for your attention.

Respectfully,

Jack M. Kleinfeld, P.E.  
President

## Attached Excerpts

### DOB Mission & Vision Statements: (from DOB website)

<http://www.nyc.gov/html/dob/html/about/mission.shtml>

The New York City Department of Buildings ensures the safe and lawful use of buildings and properties by enforcing the Building Code and the Zoning Resolution. We facilitate compliant development with integrity, efficiency and professionalism.

### Department of Buildings Vision

The New York City Department of Buildings is committed to becoming a premier municipal building organization, dedicated to enhancing the quality of life for all New Yorkers and making our city safer.

Our knowledgeable and dedicated staff is committed to improving our performance and developing procedures that are streamlined, understandable and transparent.

### Excerpts of the NYS Education Law, Article 145

#### ARTICLE 145

#### ENGINEERING AND LAND SURVEYING

- |         |         |   |
|---------|---------|---|
| Section | 7200.   | Introduction.   |
|         | 7201.   | Definition of practice of engineering.                            |
|         | 7202.   | Practice of engineering and use of title "professional engineer". |
|         | 7203.   | Definition of practice of land surveying.                         |
|         | 7204.   | Practice of land surveying and use of title "land surveyor".      |
|         | 7205.   | State board for engineering and land surveying.                   |
|         | 7206.   | Requirements for a license as professional engineer.              |
|         | 7206-a. | Requirements for a license as a professional land surveyor.       |
|         | 7207.   | Limited permits.  |
|         | 7208.   | Exempt persons.   |
|         | 7209.   | Special provisions.   |
|         | 7210.   | Certificates of authorization.                                    |

S 7200. Introduction. This article applies to the professions of engineering and land surveying. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

S 7201. Definition of practice of engineering. The practice of the profession of engineering is defined as performing professional service such as consultation, investigation, evaluation, planning, design or supervision of construction or operation in connection with any utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the safeguarding of life, health and property is concerned, when such service or work requires the application of

engineering principles and data.

S 7202. Practice of engineering and use of title "professional engineer". Only a person licensed or otherwise authorized under this article shall practice engineering or use the title "professional engineer".

S 7206. Requirements for a license as a professional engineer. 1. To qualify for a license as a professional engineer an applicant shall fulfill the following requirements:

- (1) Application: file an application with the department;
- (2) Education: have received an education, including a bachelor`s or higher degree based on a program in engineering, in accordance with the commissioner`s regulations;
- (3) Experience: have at least four years in work satisfactory to the board, provided that the board may accept study beyond the bachelor`s degree in partial fulfillment of this requirement;
- (4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner`s regulations;
- (5) Age: be at least twenty-one years of age;
- (6) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;
- (7) Character: be of good moral character as determined by the department; and
- (8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

2. In lieu of the degree and experience requirements specified in subparagraphs (2) and (3) of subdivision one of this section, twelve years of practical experience in work satisfactory to the board may be accepted, provided that each full year of college study in engineering satisfactory to the department may at the discretion of the board be accepted in lieu of two years of the required twelve years of experience.

3. For an identification card as an "intern engineer", an applicant shall fulfill the requirements of subdivision one of this section, except those in subparagraphs (3) and (5), provided that admission to the examination may be given when the applicant is within twenty credits of the completion of the requirements for the bachelor`s or higher degree as prescribed in subparagraph (2) of subdivision one, or has completed the practical experience requirement of subdivision two of this section. The fee for examination and identification card as an "intern engineer" shall be seventy dollars and the fee for each reexamination shall be seventy dollars.

4. On recommendation of the board, the department may waive specific requirements, except as to age, character, education and citizenship, in the case of applicants who are possessed of established and recognized standing in the engineering profession and who have practiced lawfully for more than fifteen years.

## **DOB Senior Management (excerpts from DOB website)**

The senior leadership team, along with their own dedicated teams of architects, engineers, inspectors and experts, is constantly working to ensure the safe and lawful use of all of New York City's 975,000 buildings. See below to learn more about the senior management team of the Department of Buildings.

- Robert LiMandri  
Acting Commissioner

Prior to joining the Department of Buildings, LiMandri was a Director at Real Foundations, a management-consulting firm, where he counseled real estate companies in areas including leasing, deal analysis, management, and construction and was a Vice President at OpsXchange, an e-procurement solution firm (2000 - 2002). From 1997 - 2000, LiMandri was a Vice President at Jones Lang LaSalle, where he was a manager and consultant to leading firms and was responsible for Class A office buildings, including 320 and 399 Park Avenue and Citicorp Center. Prior to Jones Lang LaSalle, LiMandri utilized his engineering background, managing the delivery of services for the Science and Engineering buildings at Columbia University (1990 - 1997).

LiMandri received his Masters degree in Real Estate from New York University (1997) and his Bachelor of Science degree in Mechanical Engineering from Clarkson University in Potsdam, New York (1987). He currently resides in Queens with his wife and children.

- Fatma M. Amer, P.E.  
Deputy Commissioner for  
Technical Affairs and Chief Code Engineer

Amer joined the Department of Buildings in 1981, gaining her experience in zoning and building code matters as a Plan Examiner (1981 - 1990), Squad Supervisor (1990 - 1992), Deputy Borough Commissioner for Queens (1997 - 1998), Chief Plan Examiner (1998 - 2001) and as the Department's Executive Engineer (2003 - 2004).

Amer is a New York State licensed Professional Engineer and received her Bachelor's Degree in Civil Engineering from Cairo University in Egypt (1977).

- Phyllis Arnold, Esq.  
Deputy Commissioner for  
Legal Affairs and Chief Code Counsel

Arnold received her Juris Doctor from Columbia University School of Law in New York City (1981) and her A.B. degree from Sarah Lawrence College (1976). Arnold is admitted to the New York and Washington State bars and was a recipient of the Municipal Affairs Committee Award from the Association of the Bar of the City of New York for outstanding promise, ability, and achievement in public service law (1984).

- Jenny Best  
Chief of Staff

Best joined Buildings from the Mayor's Office, where she was Deputy Director of Scheduling. In this capacity Best worked closely with Mayor Michael R. Bloomberg and his senior staff to coordinate and execute public events. Prior to serving the City, Best was a member of the New York City Ballet (1996 - 2001).

Best received her Bachelor of Arts from New York University (2003) and currently resides with her husband Michael in Cobble Hill, Brooklyn.

- Gina Betro  
Assistant Commissioner for Administration

*(no online information offered about experience, education, or background)*

- Marilyn King-Festa  
Deputy Commissioner for Technology and Analysis

Prior to joining the Department of Buildings, King-Festa was the Assistant Executive Director of Technical Systems at the New York City Financial Information Systems Agency (FISA) (1998 - 2004), where she worked to streamline the technical infrastructure and standardize the software development life cycle. Prior to serving the city at FISA, King-Festa was the Senior Consulting Architect at the Illinois Department of Children and Family Services (1997 - 1998), where she developed the technical architecture plan for the new statewide information system and Systems Integrator at the State Compensation Insurance Fund of California (1996 - 1997), managing the consulting team responsible for implementing litigation support systems.

King-Festa received her Bachelor of Science degree in Mathematics and Computer Science from the University of Houston in Texas (1970).

- Stephen Kramer, Esq.  
Senior Counsel

Kramer received his Juris Doctorate from the University of Pennsylvania Law School (1972) and his Bachelor of Arts from Harvard College (1969).

- Marietta Kremmidas  
Executive Director of External Affairs

Kremmidas received her Bachelor of Science degree in Communications Arts from St. John's University in New York City (1999).

- Mona Sehgal, Esq.  
General Counsel

Sehgal received her Juris Doctorate from Northeastern University School of Law (1990) and her Bachelor of Arts from New York University (1985). She is admitted in the New York State Courts, the Southern District of New York, and the Eastern District of New York.

**Excerpts from the City Charter: ([www.nyc.gov/html/charter/downloads/pdf/citycharter2004.pdf](http://www.nyc.gov/html/charter/downloads/pdf/citycharter2004.pdf))**

CHAPTER 26

DEPARTMENT OF BUILDINGS

§ 641. Department; commissioner. There shall be a department of buildings, the head of which shall be the commissioner of buildings. The commissioner shall be a registered architect or a licensed professional engineer in good standing under the education law.

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§ 643. Department; functions. The department shall enforce, with respect to buildings and structures, such provisions of the building code, zoning resolution, multiple dwelling law, labor law and other laws, rules and regulations as may govern the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of buildings or structures in the city, and shall perform the functions of the city of New York relating to

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§ 645. Offices of the department; powers and duties.

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(b) With respect to buildings and structures, the commissioner shall have the following powers and duties exclusively, subject to review only by the board of standards and appeals as provided by law:

- (1) to examine and approve or disapprove plans for the construction or alteration of any building or structure, including the installation or alteration of any service equipment therein, and to direct the inspection of such building or structure, and the service equipment therein, in the course of construction, installation or alteration;
- (2) to require that the construction or alteration of any building or structure, including the installation or alteration of any service equipment therein, shall be in accordance with the provisions of law and the rules, regulations and orders applicable thereto; but where there is a practical difficulty in the way of carrying out the strict letter of any provision of law relating to buildings in respect to the use of

prescribed materials, or the installation or alteration of service equipment, or methods of construction and where equally safe and proper materials or forms of construction may be employed in a specific case, he may permit the use of such materials or of such forms of construction, provided that the spirit of the law shall be observed, safety secured and substantial justice done, but he shall have no power to allow any variance from the provisions of any law in any respect except as expressly allowed therein, or from any appellate ruling of the board of standards and appeals;

(3) to issue certificates of occupancy for any building or structure situated in the city,

...

f. the commissioner may, on request of the owner of a building or structure or his authorized representative, issue a temporary certificate of occupancy for any part of such building or structure provided that such temporary occupancy or use would not in any way jeopardize life or property;

g. the commissioner may permit in specific cases experimental or demonstration construction not in compliance with the building code in order to obtain knowledge and information not supplied from other experiments within the city; the owner of such construction shall conduct such periodic tests and evaluations as the commissioner may specify and submit results and reports to the department of buildings as the commissioner may require; except as otherwise specifically permitted by the commissioner, the construction shall be erected and maintained in accordance with all provisions of applicable laws, rules and regulations.

(c) The commissioner may, by instrument in writing filed in the department, designate a borough superintendent of the department to possess within a borough any of the powers granted to the commissioner by subdivision (b) of this section and to exercise the same within such borough in the name of the commissioner for such times and under such conditions as he may specify. The borough superintendent shall also perform such other duties as the commissioner may direct.

(d) The commissioner shall review and certify any proposed subdivision of a zoning lot with any building thereon, in order to ensure that the subdivision will not result in will not result in any violation of the applicable zoning laws.

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§ 646. Conduct of investigations. The commissioner shall have the power and duty to conduct such inquiries as may assist him in the performance of the functions of the department where the public safety is involved and for such purpose he shall have subpoena power to compel the attendance of witnesses, to administer oaths, examine witnesses and to compel the production of books, papers and documents.