

FEDERAL STANDARD ABSTRACT

TITLE NEWS

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Title News

Alternative Enforcement Program

On June 15, Mayor Bloomberg signed into law the new Safe Housing Law, which created the Alternative Enforcement Program. Under the AEP, Housing Preservation and Development designates 200 multi-dwellings per year to receive special attention. Any buildings on the list are subject to extensive inspections and repairs by HPD. The concept is similar to Emergency Repairs: HPD fulfills the landlord's obligation and then bills the landlord. The difference lies in the extent of the correction. While under the Emergency Repairs program HPD typically provides oil for heating, locks, or services building systems, under the AEP the agency has the authority to overhaul building systems entirely and bill the landlord. For example, HPD could deem it necessary to replace the domestic water supply, the heating plant or the roof. An "AEP Order to Correct" describing the repair needed will be filed with the City Register against the tax lot. On November 21, 2007, HPD revealed the first 200 buildings to be within the program. The list is available at HPD's website. Owners have a four months' window of opportunity to correct all violations against a building and apply for its removal from the list.

City Takes Action Against Use of SROs as Transient Hotels

On September 6, 2007, the New York County Supreme Court granted an injunction enjoining three "Class A" multiple-dwelling buildings from being used as transient hotels. "Class A" buildings, more commonly known as "single room occupancy" ("SRO"), are approved for residential use -i.e. for long term occupancy- in residential areas. Transforming them into commercial hotels defaces the neighborhood and reduces the available housing for residents. According to the Court, their use as hotels violates the certificate of occupancy and zoning laws. Certificates of occupancy for "Class A" buildings often read "new law tenement." The action was brought by the City. In a press release dated October 30, 2007, the City applauded the Court's decision and expressed its intention to continue its pursuit against similar buildings. Potential purchasers of such buildings should beware that the income produced could be greatly reduced.

ACRIS Release 4.0

The Department of Finance introduced changes to ACRIS effective December 3, 2007. The changes are designed to simplify the use of ACRIS to reduce the

amount of rejected documents and thereby increasing efficiency. The changes are summarized in a press release available in DOF's website and known as ACRIS Release 4.0.

Of greatest relevance to practitioners is the new procedure regarding rejected documents. All documents in one transaction are submitted in one package together with payment of all applicable fees and taxes. Before, if any one of the documents was deemed "unrecordable", the entire package was returned. Now, the City Register will only return the specific deficient documents but keep the rest of package locked. The package will be recorded only once the corrections to the deficient documents have been made. In principle, this is a rational way of preventing officials from checking documents twice. Documents correct in form are locked and cannot be changed. In practice, this may present difficulties to the practitioner. Sometimes correcting a document to the specifications of ACRIS is not an option for one's client. Sometimes a client

would rather amend the entire closing package and re-characterize the transaction rather than submit to the specific changes called for by ACRIS. Under the new rules, the client may not have an option.

Title Insurer's Duty to Appeal when Defending Title

In the case of a claim, title policies give the insurer the right to either pay out or defend the insured title. On September 11, 2007, the King's County Supreme Court ruled that whenever a title insurer chooses to defend title a duty to appeal a negative ruling follows, provided there is a "rational basis" for the appeal. In the case in question, the title insurer had defended title for seven years. After a negative decision, it decided to abandon the defense and pay for the loss of a portion of the insured premises. The insured engaged its own counsel, appealed, and then sued the insurer for the appeal expenses. *Schneider v. Commonweatlth Title Ins. Co.*, 17 Misc.3d 552, 844 N.Y.S.2d 657.

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