

How to Deal with Urban Construction

Construction Next Door

BY RAANAN GEBERER 2007 NOV

INTERIOR MAINTENANCE



Say that you and your neighbors have been living a quiet, peaceful life on your tree-lined city block for years and years. Suddenly, you see construction workers digging in that vacant lot next to your condo or co-op building. So you go down to the city offices—or these days, go online—and find out that someone has bought the lot and filed plans to construct a new, taller building.

Even if you're not upset about having your vistas blocked by new development, what about the work itself? What can you do if there's excessive noise or dust—or worse, problems like a broken water pipe or phone line?

The kind of notification that builders need to give neighbors can vary with location. According to attorney Marc Luxemburg of the law firm of Snow Becker Krauss in Manhattan, if the builder wants to begin construction that is not "as of right"—for example, if he needs a variance to build higher than is currently permitted under the zoning for that area—he will have to go to the community board, and the neighbors will have to be given an opportunity to voice their concerns.

A similar caveat applies if the construction occurs in a landmarked district—the builder has to get approval from the Landmarks Preservation Commission to make sure the new structure will fit in with the area's historic buildings.

In addition, says Brooklyn attorney Lawrence F. DiGiovanna, if an existing older building is on the site and is being demolished, an asbestos report must be made [redacted] approved.

However, if none of these problems exist, the plans have been approved by the Department of Buildings (DOB) and the building is constructed "as of right," then

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Notification of Demolition

Aaron Brashear is the co-founder of the Concerned Citizens of Greenwood Heights and chairs the Buildings and Construction Subcommittee for Brooklyn Community Board 7, which includes Sunset Park and Windsor Terrace as well as that neighborhood. He tracks construction problems in the area on a case-by-case basis.

"The only communications builders have to do," he says, "is to give notification of demolition, if that is the case, about two to five weeks prior to starting. This is usually done by registered mail, and is required by the Department of Buildings. Good developers give six or seven weeks notice, bad developers the week before—or in some cases, we've heard about people who've never gotten the letter."

The DOB, he adds, "does not interact with adjacent property owners unless they interact with the DOB. The residents [of the adjacent building] can take a proactive approach, go to the DOB, pull plans, ask to meet with the plan examiner and go to the community board."

"Larger projects, like the Atlantic Yards, may require the completion of an Environmental Impact Statement," says Kate Lindquist, press secretary for the DOB. "For smaller construction projects, the law does not require a developer to notify and seek approvals from the community."

What are some of the most common complaints that arise when a new construction project begins to take shape next to an existing building? Among the most common objections are noise, especially early in the morning and late at night; garbage, dust and debris.

According to city regulations, construction is only supposed to proceed from 7 a.m. to 6 p.m., Monday through Friday. Areas where dust is generated should be tarped off. Excessive dust and dirt are grounds for a complaint to the DOB, while noise complaints are the province of the Department of Environmental Protection (DEP). Either way, the city can send an inspector out to assess the situation, warn builders and/or issue a violation.

Such complaints, however, are only the least harmful situations. "If they have to do damage to adjacent properties," says Brashear. "If they have to do obviously for their foundation, the developer more than likely will and will have to do something called 'underpinning.' If they don't do some sort of shoring to protect your property."

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State, City Requirements

This protection for adjacent properties is provided for in a new state law, A7748/S5246, signed just this year by Governor Eliot Spitzer. The law also requires contractors to carry insurance for damage caused by construction, demolition and excavation, a new requirement.

With all the laws and regulations, however, shoddy construction practices continue, perhaps encouraged by the developers' rushing the work through, by the use of non-union day laborers who are not as skilled as union workers, and a variety of other factors.

"They [builders] have to survey the area and have civil engineers do whatever is required to protect property," said Carl Sontz, an engineer who formerly practiced in New York and is now located in Virginia. "Usually, problems occur with fly-by-night operations. A few years ago, some nitwits were working in a basement in the 20s in Manhattan, knocked out one of the structural columns, and the whole building fell down."

Thankfully, incidents like this are the exception, not the rule. Things like vibrations from neighboring construction and excavation destroying property are more typical.

"If it's a common complaint of a number of individuals [within the co-op or condo], the board is probably going to press the issue on behalf of everybody and file a claim for damages with the contractor's insurance company," said Luxemburg.

Hopefully, the new law requiring contractors to carry insurance for demolition, construction and excavation can cut down on litigation and the number of lawsuits resulting from these problems.

What is a builder or developer's legal responsibility to neighboring buildings to minimize dust, noise and other common problems? Well, as we've mentioned, the city code has restrictions on the hours during which construction work can proceed, the amount of noise that is tolerable, how dust should be contained and so forth.

Tough new city legislation that was adopted this past July reduced some of the maximum permissible sound levels and also imposes detailed restrictions on construction activities as well as from bars, restaurants, car alarms and so forth.

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Developers and contractors, says Brashear, "are doing the right thing if they're following DOB bylaws; doing things like shoring, underpinning, putting up a sidewalk shed, waterproofing when necessary, working during normal hours during the day and being a good neighbor." Lest one think he's talking about a fantasy world, Brashear points out that he has a "working relationship" with a developer on his block who has done four developments there, totaling 98 units, and is about to do a fifth.

If developers and contractors do their work properly, they can use dust containment facilities, have blowers inside a building blow into a filtering unit and seal up openings. And as far as construction noise reduction is concerned, new DEP rules specify that all construction sites must post construction noise mitigation plans; that construction equipment be equipped with noise-mitigation devices such as mufflers; that doors to engine enclosures be kept closed, and more.

Start Out on a Friendly Basis

In general, professionals agree that when dealing with construction projects next door, you should first start out on a friendly basis.

Brashear says you should first reach out to the developer and invite him to your co-op or condo board meeting, or a community meeting if residents of several buildings in the area are concerned. In a best-case scenario, he says, the developer agrees to follow your recommendations; in a worst-case scenario, you need to retain an attorney and engage the services of an engineer.

DiGiovanna also says that "communication with the builder is important, to make sure the co-op/condo's concerns are made known. Also, it might be advisable to hire an engineer to inspect your building to determine its condition prior to construction, so that if damage is done, there is a professional who can say what the damage was."

The builder himself, he adds, often is concerned that there could be claims of damage, and might ask, "I'd like to have my engineer to look at your foundation, look at your basement, look at your house, just in case there's damage later on."

Luxemburg says that the developer should "go to the building n good relationship with the surrounding buildings. Otherwise, he' particularly with regard to potential damage."



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Sontz adds that in particular, your co-op or condo board should find out where the new building's HVAC equipment, including the chiller and cooling towers, are going to be, since these items can produce large amounts of vibration and noise. "After the building is built," he says, "it's not a good idea for you if they have to put their rotating machinery in an area close to your property line."

If problems keep happening but you're not ready to go the legal route just yet, you can always call 311, call the Department of Buildings to make a complaint and follow up with your community board.

Finally, there are some things you may just have to live with. If you have some rare glass or porcelain antiques on a window sill near a construction site, it might be a good idea to move them for awhile.

Raanan Geberer is a freelance writer and editor living in New York City.

18 COMMENTS



AARON BRASHEAR on MONDAY, DECEMBER 03, 2007 2:12 PM

Great article in Cooperator by Raanan Geberer.

The interesting point here, besides (in my POV, and not just because I was quoted...) it being an excellent, well researched article (God forbid), that it will be applicable to our "new neighbors" who are moving into the recently built (for good or bad) condos and rentals in our area (more condos than not).

I applaud the article's level-headed approach to an on-going situation as the city continues to need new housing where old housing (or new) currently exists.

--Aaron Brashear

Concerned Citizens of Greenwood Heights



KEVIN BARRY on MONDAY, OCTOBER 13, 2008 9:45 AM

Question: When renovating an apartment within a building are there any specific mitigation plan?

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NOE on MONDAY, DECEMBER 22, 2008 12:03 PM

are they allowed to star working at 7 am?

I think they should start working around 9 am... the noise can be too much, for those who (like me) work during the night till 3 am or 4 am...



SONIA on MONDAY, OCTOBER 25, 2010 12:07 PM

i live in manhattan on Grand St . The management has hired a construction company that is comprised of immigrants that we suspect are illegals.

The construction of our apts in a 26 floor bldg is being done with families living in their apt and contaminated with powder, dust and NOISE. What can be done??? please HELP. I AM ABOUT TO CONTACT THE DEPT OF HEALTH AS MANY TENANTS ARE EXPERIENCING WHITE DUST AND CEMENT DUST INSIDE THE APT MON THRU SAT AND PAYING OUR RENT...THIS SEEMS SSOOOOO WRONG...



ANONYMOUS on SUNDAY, JUNE 19, 2011 11:50 PM

COMO PODRIA LEVENTAR UAN QUEJA PUES TENGO PROBLEMAS POR QUE VIVO EN PLANTA BAJA Y TENGO UN JARDIN LO CUAL LOS VECINOS NO LE DAN MANTNIAMIENTO , QUIEREN HACER USO DE EL, SIENDO QUE SOMOS LOS UNICOS QUE LE DAMOS EL MANTENIMIENTO



ME on MONDAY, MARCH 04, 2013 4:21 PM

Sonia, how can you tell if the person is illegal?

Did you ask for their passport? If you are experiencing any unusual dust from construction site, call 311. It can be silica contained dust.



SUSAN on THURSDAY, APRIL 11, 2013 12:55 PM

how to deal with damages done to my peoperty by next door construction. my insurance wont cover damages and their insurance has exclusion to construction damages to neighbors.



VICTORIA on SUNDAY, APRIL 14, 2013 8:52 AM

I live in Williamsburg, Virginia and there is new construction ir start the noise before 7am all week long including weekends. inconsiderate for anyone living in the area.

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JUDI on WEDNESDAY, JUNE 12, 2013 11:10 AM

I'm in Florida and experiencing noise from incoming workers starting at 6:15 a.m. I'm a teacher and now home with kids and it was not on my plans to get up this early every morning! Also, the dust from the trucks and work so far is so bad that I can clean a table or my car and within an hour it is covered again. My son and I have also developed a cough I believe to be tied to the dust. Add to it my worry that the shaking of our 100 year old house is going to make worse damage to our home that happened last time they did work there. They brought in a giant 'earth shaker' when building a road. Now they are building much more and I feel hopeless as the little person next to the big corporate machine.



BIG UGLY PARKING GARAGE on MONDAY, SEPTEMBER 16, 2013 9:26 PM

We are having the same noise and house damage problem as Judi due to the \$81M Turkish American mega-mosque complex construction in Seabrook, Maryland. We have voiced our concerns to the construction company Balfour Beatty, the county, and the owners. None of them care. In fact the owners representative indicated they would do nothing to stop the problems or compensate the neighbors.

I have been documenting with photos and videos. I've posted some of them online.



ANONYMOUS on FRIDAY, MAY 30, 2014 3:50 PM

There is a new video google the "building next door" of a conference that took place at Baruch College this 2014 spring. A consortium of legal, engineering and real estate people.



MICHAEL HUETT on MONDAY, JULY 14, 2014 8:59 AM

Hi I own 12 stables and 4 Acers off land and the electric board are building a large substation and erecting two large windmills less than a hundred meters from my small holding. I have never seen any planning permission notification and now I have to see this concrete jungle being built in the next field and also loosing a beautiful view. Have you any advice or any one who could advise.



EFFIE on FRIDAY, SEPTEMBER 12, 2014 11:00 AM

I live in Brooklyn next to a cement company with random hou end of day 8pm six days a week sometimes 7. I cannot open tl

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dust comes in my apartment. I developed a cough that will not go away. The doctor told me I am allergic to something but I believe it maybe linked to the dust because two weeks away from the house it stops. The house shakes every time they decide to do whatever it is they do. They pump their cement water in the city sewer sidewalk drain. When I filed a complaint I received a summons from DEP that I had to fight in court and won but never complained after that. They get deliveries of sand and rock all hours of the nights.



LINDA on TUESDAY, FEBRUARY 24, 2015 1:01 PM

I live on the upper West side of Manhattan and there is extensive renovation going on in the apartment above me. Today the project manager called to tell me that a 3 inch hole was created in my bathroom ceiling when the crew was cutting a WASTE line. She said debris has fallen into my bathroom and she will clean it up when I get home from vacation. It is a waste line that was cut but she can't tell me if waste is on my bathroom floor. The past 3 weeks they have had large fans running day and night. I asked her if they cut a waste line then also and they dried the waste with the fans. She denied that there was waste or water above my ceiling but couldn't tell me why the 24/7 fans were running. Who can I report this to and have someone come and inspect to see that they have not contaminated my ceiling and apartment. I d not have the money to hire lawyers or inspectors.



ANONYMOUS on TUESDAY, APRIL 28, 2015 5:51 PM

the constant noise, machinery, shaking from bulldozing -- all of it is so demoralizing when projects continue one after another. It's made worse by the builders subjecting us all day long to their favorite radio station. What an awful thing to do to your neighbors!



CAITLYN FLICKINGER on SUNDAY, MAY 17, 2015 11:50 AM

Hello, my name is Caitlyn I am in new jersey mullica west apartment complex. Talk about your place of home looking like Yemen out there. They started this construction zone on or around September 14th 2014 the construction owners said we would be moved when they started to construct, well that was all verbal. So here it is May 17th 2015 an we are still in Yemen. From 7:14am there are machinery guys everywhere ! I mean everywhere there is a generated that runs from 7am to 6:30pm its lovely. They are going in to citizens homes an ripping there kitchens, bathrooms, carpet painting in side there homes while they are living there. I recently have mold growing in my tub, an I called the health department because my complex office employees do not do there job. So the health departments was the next choice, called them an she said a co guy would be out, never showed up an the complex office called an said they got a phone call from the township. So that's how there job. Its like living a night mare everyday waking up to th and I shouldn't have to move an relocate someplace else I'm a every month. But there is much more I can go on an on about people care about citizens. They'd rather have a shotty job bui product a friend lives in a new place. I beg to differ that its be;

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DREW on THURSDAY, JUNE 25, 2015 9:32 AM

Manhattan 15west 39th - massive Hoe Ram going non stop - making it impossible for myself and my employees to work - 110 decibels -
sure they have permits and I am sure the person whom issued them was well taken care of. Called the DEP called 311 - in the next 10days someone will inspect - also massive dust being churned up into our air - no watering of the area to minimize this.
Again city will likely do nothing - but in the meantime all of our business suffer !



LARRY on MONDAY, JULY 03, 2017 2:59 AM

Would appreciate any statistical data that indicates that the new construction of a large High Rise Bldg. adjacent to a residential home devalues the homeowners property .A 10 level condominium and marina is proposed to be constructed within 100 feet of my home. My home is one of four in a small residential subdivision. This proposed construction is the first in a zoned residential area and I am concerned that the value of my home will be impacted by this commercial high rise building. It would be difficult to sell my home or at least I would not be able to sell at top dollar as a result of this intrusion. Noise, traffic, marinas activities all within a few hundred feet of normally quiet waterfront residence.
Thank you



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