Ways to Challenge Some Hurricane Sandy-Related Violations  
from the NYC Department of Building and Department of Sanitation

New York City Council has adopted two new laws, Int. 1037-A and 448-A, that create defenses in some situations to Department of Buildings and Department of Sanitation violations that are related to damage caused by Hurricane Sandy. These laws take effect on August 8, 2016. Also, the Department of Buildings’ current policy prohibits most violations for Sandy-related conditions if the homeowner is in the Build It Back program.

These defenses apply only to violations that are for damage caused by Sandy, Sandy repair work done by a city contractor, or violations that are the result of you being displaced from your home by Hurricane Sandy.

The new laws also authorize refunds for violations already paid or defenses to some older Sandy-caused violation. The procedures for challenging older Sandy-related violations or for getting refunds have not yet been announced. After August 8, 2016, contact your city council member or legal services to find out how to proceed.

The defenses may not apply if the violation was for certain types of immediately hazardous violations, but those exceptions are complicated. You should attend the hearing to see whether your violation can be dismissed.

Department of Buildings Violations

If you are or were in Build It Back:

1. Attend the scheduled hearing on the violation at the Environmental Control Board (ECB);
2. You will be given a form to complete: Check “not guilty” and ask for a hearing;
3. Bring a copy of the attached testimony of Timothy Hogan, Deputy Commissioner of Enforcement, which has highlighted on page 2 the relevant Department of Buildings policy for Build It Back participants. Give this document to the hearing officer, in case the hearing officer is unaware of the policy.
4. Bring proof that you are in the Build It Back program or you were at the time of the violation;
   a. Proof can be a copy of any Build It Back documents that you signed, such as an Option Selection Agreement, a Coordination of Benefits agreement, or some other document or letter you have from Build It Back that shows your participation in Build It Back.
   b. Ideally, you should bring a document that shows that you were in Build It Back around the time of the violation and that you are still in Build It Back.
   c. If you were in Build It Back at the time of the violation but are no longer, bring something showing your participation at the time of the violation.
d. If you don’t have any documents, ask Build It Back for copies of the documents.
e. If you can not do that before the hearing, give the hearing officer your Build It Back applicant ID number. The hearing officer will probably adjourn, and you will have to return a second time with the Build It Back proof.

If the violation was caused by a City contractor (a Build It Back or Rapid Repairs contractor):

1. Attend the scheduled ECB hearing and mark “not guilty” on their form to get a hearing;
2. If a Rapid Repairs contractor caused the violation, any proof you have that Rapid Repairs did the work.
3. If a Build It Back contractor caused the violation, bring a copy of any construction contract you have and any document showing the scope of work that the contractor was to complete.
4. Note: This defense does not officially take effect until August 8, 2016. But if your hearing is before that date, make your defense anyway!

Department of Sanitation Violations (littering, snow or ice removal)

These defenses do not officially take effect until August 8, 2016. But if your hearing is before that date, make your defense anyway!

You have a defense if the violation occurred while you were displaced by Hurricane Sandy damage to your home and you are in Build It Back.

1. Attend the scheduled ECB hearing and mark “not guilty” on their form to get a hearing.
2. Bring proof that you were displaced by Sandy:
   a. Proof that Sandy caused your displacement can be a damage assessment from your insurance company, from Build It Back, or from the City of New York showing that your house is unlivable.
   b. A lease or your rent receipts from a temporary apartment can prove that you are still displaced.
   c. If you are living with friends or family, a signed statement from them can help.
   d. You will need to show that you were not living in the home at the time of the violation.
   e. Documents showing that you received and are still receiving temporary rent help from FEMA, NYC, or Build It Back can also help prove you are displaced by Sandy.
3. Bring proof that you are in the Build It Back program awaiting repair, rebuild, or acquisition.
   a. This can be documents such as a signed Option Selection Agreement, Coordination of Benefits form, Grant Agreement, or other Build It Back document showing your participation at the time of the violation and now.
   b. If you do not have any of these documents, ask Build It Back for copies before the hearing.
   c. If you cannot get these documents before the hearing, give the hearing officer you Build It Back application ID number. The hearing officer will likely adjourn the hearing to a future date when you will have to come back and bring the documents.

If you have questions, contact Margaret Becker, Legal Services NYC, 718-233-6484, mbecker@lsnyc.org.