

SEEKING SPEEDIER APPROVALS

Push for professional certification for interior renovations meets roadblocks

By **BERNADETTE STARZEE**

In New York City, the Department of Buildings allows registered architects and professional engineers to certify that the plans they file for building projects are in compliance with all applicable laws. As builders don't have to wait for the department to examine or approve the plans, the so-called Professional Certification Program helps streamline the permitting process, thus speeding up projects.

This is not the case on Long Island – something the building community has been trying to change for years.

The Association for a Better Long Island has worked closely with David Calone, chairman of the Suffolk County Planning Commission, to draft a plan that would allow self-certification for interior renovations. The Town of Brookhaven expressed interest in serving as the pilot town for the program.

"But we ran into an issue in that we needed state legislation to authorize it," said Calone, who said the matter could be considered as early as January, when the next state legislative session begins.

"The New York State Uniform Fire Prevention and Building Code does not permit self-certification," said Carole Trotter, director of communications for the Town of North Hempstead. "New York City is the only municipality in New York State that is exempt" from the code, she said, noting the city has its own building code.

On Long Island, the coalition is starting with small projects.

"We're not talking about structural renovations, where you're changing load-bearing walls, but straightforward interior renovations," Calone said.

But while the projects are relatively small, the impact of a change could be significant.

"Interior renovations are going on all the time in office buildings as well as commercial and industrial buildings, and it can take several months to get a permit reviewed and approved," said John Racanelli, a partner at Uniondale-based law firm Farrell Fritz. "In the meantime,

landlords and tenants are fighting against deadlines."

With interior renovations, "the work isn't as complicated, and the risk seems minimal," Racanelli said. "Further, there's no release from liability on the part of the owner or architect if a mistake is made – they are still liable to comply with codes."

Allowing professionals to self-certify would not detract from the standards, said Mitchell Pally, CEO of the Long Island Builders Institute, a trade group in Islandia.

"The architect or engineer is putting his license at stake," he said. "It's not an easy thing to do to get a license, and these professionals are loath to put it up just to have it taken away."

In addition, completed projects would have to pass all inspections.

Still, "there is potential for abuse and the industry would need to audit itself and sanction any unsavory practitioners," said Alexander Badalamenti, principal of Baldassano Architecture in Patchogue.

In New York City, 20 percent of all professionally certified applications are selected for an audit within 10 days of the first permit issuance, according to the NYCDOB website.

"It's a system that works in New York City," Racanelli said. "They couldn't move on with the level of building that is going on there without something like this."

Municipalities would benefit since "self-certification would free up staff to spend more time on inspections and reviews of more complicated projects that come along," he added.

However, developers say many municipalities are happy with the status quo.

"Some towns don't want self-certification – it eliminates bureaucracy and decreases the power of building departments," said Edward Blumenfeld, president of Blumenfeld Development Group in Syosset. "Bureaucracies are killing us. The towns aren't the ones faced with losing a tenant – it's not money out of their pocket."

But town officials say their hands are tied.



ALEXANDER BADALAMENTI: His architecture firm self-certifies on many projects in New York City.

In the Town of North Hempstead, "there are no plans to change anything, and we are not allowed to change anything since this is a New York State law, not a local law," Trotter said.

"It sounds like a good idea, but many towns won't go for it because it would cut income to the town," said Sean Walter, supervisor of the Town of Riverhead. "There has to be some nexus between the fee charged and the service provided; if they're not reviewing plans, they shouldn't be issuing a fee."

Professional certification wouldn't necessarily result in lower fees, Calone said.

"[Municipalities] get fees for issuing permits/certificates of occupancy – they could either keep the fee the same or reduce it based on professional certification," Calone said, adding, "I would hope that they would lower fees...since there is less work involved for the municipality."

Like many registered architects, Badalamenti does work in both New York City and Long Island.

In the city, "we will self-certify when a project is straightforward and we feel a need to expedite the process," he said. "If it is more complex, especially with respect to zoning, we like to have the benefit of the checks and balances from an independent official that is not so close to the project."

Licensed architects and engineers are responsible for upholding the health, safety and welfare of the public, Badalamenti said.

"While the New York State Building Code is the standard for compliance, it is often deliberately interpretive," he said. "Good judgment to 'interpret' the code belongs to the licensed professionals, while the 'enforcement' belongs to the local officials."

Room for interpretation means there are potential gray areas.

"Captured within an official's responsibility for enforcement is an element of interpretation; in these instances, the state can review and provide a determination," he said. "Ultimately, the licensed professional is solely liable for compliance with all local, state and federal regulations."

In addition to building code compliance, professionals must comply with local zoning and planning regulations.

"Often, local requirements or methods of good practice are nuanced and then adopted into local zoning ordinances and code regulations," Badalamenti said. "With 130 towns and villages on Long Island this can cause a great deal of confusion, so it's best that most aspects of planning and zoning continue to be scrutinized at the local level."