

WHY ARE NYC RESIDENTS HESITANT TO CALL 911 IF THEY SMELL GAS?

On March 12, 2014, an explosion leveled two apartment buildings located in East Harlem, killing eight people and injuring at least 70 others. According to the National Transportation Safety Board (NTSB), the explosion may have been caused by a leak in the natural gas service at an adjacent building. The safety board has yet to release its final report indicating what it believes led to the gas leak and subsequent explosion. According to published articles, prior to the explosion several residents smelled the odor of gas, but no one called the Utility or 911 to report it.

On March 26, 2015, another explosion occurred in NYC on the Lower East Side. This blast killed two people, injured over twenty people and leveled a total of three buildings. The prevalent theory is that it was a natural gas explosion caused by an unauthorized connection to the existing gas piping system. In this case residents also smelled gas and did not call the proper authorities to report it.

At this point law enforcement, lawyers, insurance companies and the courts will settle on who or what was responsible for the latest tragedy. If the explosion was related to the illegal tampering of gas piping, then all culpable parties involved should be prosecuted to the fullest extent of the law. Their actions recklessly endangered the lives of all NYC residents.

In the past year, two gas explosions have occurred in NYC. Were they preventable? In hindsight, just about anything is preventable. What is most important to the MPC, and what this entire issue of the Voice will be devoted to, is the existing industry conditions that could possibly enable these types of incidents to occur again. We will

also outline what changes can be made to reduce the chances of this happening again.

Every day in NYC the public could be faced with potential leaks in their gas piping systems. If someone suspects there may be a gas leak, the immediate response should be to call 911 or the Utility. In some cases, it is common for a resident to be instructed to call their super or building manager if they smell gas. Many property managers and owners are worried that calling the proper authorities could lead to a shutdown of their gas piping system.

What are some other possible reasons why residents, managers or owners may be hesitant to call 911 or the Utility?

- Ignorance of proper safety procedures.
- Apprehension that if they call to report a leak, their gas system will be automatically shut down.
- Concern that if their gas is shut off it may take a long time for it to be restored.
- Belief that their super, handyman or plumber may be able to fix the problem without having to shut the gas off.
- Perception that it may take a long time to obtain a permit to do the repair work.
- Fear that if they have to install new piping, it cannot be installed in certain locations, which may create additional work and increase costs.
- Desire to save money by using a handyman rather than a licensed plumber.

A Message from the Executive Director of the Master Plumbers Council

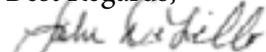
Is gas piping safe in NYC? That was the question on everyone's mind after the latest tragedy that occurred in Manhattan on March 12, 2015. At the Master Plumbers Council, we are less concerned about the specific reasons for this tragedy, and more focused on why this occurred and possible solutions to help prevent this from happening again.

Since the explosion, we have dedicated a Board of Directors meeting to discuss this issue. Our Utility, Illegal Practices and Sub Operations committees also were given the opportunity to present reports. Their reports discussed current industry issues that could potentially allow something like this to occur again. By the end of the meeting, we developed an overall outline of what the problems were and possible solutions. The Board directed our Political Action Committee to seek meetings with the proper officials to discuss these issues. This past month, MPC committee members have met with several City Council members, Con Edison Representatives and the NYC Buildings Commissioner. In each meeting, we were given the opportunity to explain what we believe to be the critical issues that need to be addressed to properly protect the public. These meetings were extremely productive and all parties left with the understanding that changes must be made. We will also be speaking at various real estate functions to help educate that industry. In addition to these meetings, we have devoted this entire issue of *The Voice* to address this critically important topic.

In the past month, there has been some proposed legislation and rule changes that could affect the way a licensed plumber would conduct gas pipe installation and testing. We are open to anything that would truly increase public safety. However, before we could support any such legislation, we would need assurances that there would be effective enforcement of existing code regulations. Also needed are changes to the code and procedures that will enable licensed plumbers to immediately address gas restoration projects.

When we say that the plumber protects the health of the nation, we mean it. The public that we are referring to are the everyday New Yorkers who should be able to go about their lives with the expectation that the plumbing and fuel gas systems in their buildings are safe. For public safety to truly be achieved, it will require a commitment from the Utilities, DOB, City Council, Mayor's office and the plumbing industry. While we cannot yet be certain what issues may have caused this latest tragedy, we can be sure that a truly collaborative effort is necessary to reduce the chance of any future tragedy.

Best Regards,



Executive Director, NYCMPC



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We welcome your suggestions and contributions.

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There is a mindset among some in the real estate industry that there is nothing wrong with utilizing unlicensed individuals for plumbing repair work because of the perception that it is more cost effective to do so. Even when the project is larger in scope, they may retain an individual that is not licensed who is “covered” by an unscrupulous licensed plumber. It is assumed that there is very little risk and the chances of being violated are very slim. Although this activity has been primarily limited to plumbing work, this trend is starting to include fuel gas work as well.

Allowing unlicensed individuals to perform plumbing work can have severe consequences. On January 21, 2015, the Avalon Apartments in Edgewater, New Jersey burned to the ground. According to press reports, maintenance workers were using a torch to perform plumbing repairs in an apartment. They allegedly started a fire within a wall and instead of calling 911, they called their supervisor. These actions lead to a delay in contacting the authorities. Luckily, there were no deaths as a result of this incident, but 400 apartments were destroyed.

Unlicensed individuals can be a detriment to the public in many other ways. Inadequate maintenance of domestic hot water heating systems can lead to scalding incidents and also the spread of Legionaries disease. Improper drain or water line installations can allow for mold to grow and improper venting can lead to additional hazardous issues. In April of 2003, the Hong Kong Department of Health reported that the Severe Acute Respiratory Syndrome (SARS) virus was transmitted through the defective drainage system of a Hong Kong apartment complex. This outbreak resulted in 65 deaths and 321 others infected with SARS. Most news stories failed to detail the specifics of how the virus was spread through the plumbing. With today’s global lifestyle, proper plumbing practices are more important than ever.

The NYCMPC strives to promote the benefits of hiring a licensed and insured plumbing firm. This not only benefits the trade, but all NYC property owners who are concerned about a legal and safe plumbing installation. Our main mission is to promote public safety through the use of proper plumbing practices. We believe that gas piping installed by licensed plumbers, properly tested, inspected and energized by an operator qualified Utility personnel is inherently safe. Existing Codes and Utility Guidelines, if properly followed, are sufficient for the safe installation, alteration, repair, maintenance and operation

of all natural gas systems. We are not alone in that belief.

In October of 2014, new Federal Guidelines were mandated to the Public Service Commission (PSC) that would require operator qualification of all persons who work on gas service and meter piping. Licensed plumbers were faced with the potential of losing the ability to work on gas service and meter piping without having to undergo major changes in the training, qualification and monitoring of employees. Industry associations entered into a dialogue with the PSC to prove that licensed plumbers and their employees were already properly qualified to do this work. The Public Service Commission issued a memorandum for Case 14-G-0357 (Effective April 02, 2015). The PSC determined that NYC Licensed plumbers and their employees working under the NYC Fuel Gas Code, Administrative Code and Utility Guidelines are more than qualified to work on gas service and meter piping without any further operator qualifications or monitoring.

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WHAT OTHER INDUSTRY CONDITIONS EXIST THAT COULD ALLOW SUCH A TRAGEDY TO OCCUR AGAIN?

UTILITIES

Utilities experience difficulties when trying to staff their key field employee and customer service positions. The increase in gas leak complaints has only exacerbated this problem. Often it can take days to get a response from a representative, weeks to get an appointment and several more weeks to get a meter set in certain service areas. Con Edison has embarked on an aggressive program to replace some of its aging infrastructure. The surge in the oil to gas conversion market has also hampered their ability to provide new gas services in a timely fashion. The average age of a NYC gas main may be up to 56 years old. Up to sixty percent of Con Edison's gas mains and forty eight percent of National Grid's gas mains are made up of what is considered to be potentially leaky materials. That can possibly add up to over 3,000 miles of potentially leaky pipe lines.

As the Utilities have increased the amount of safety checks being done, they have located more service lines that need to be replaced immediately. They are forced to pull crews off of the installation of new mains and services, which results in customers having to wait longer for gas services to be installed into their buildings. Every plumber has a story about a job that they have completed their work and are still waiting for gas service. Owners can become especially desperate if they have rental spaces to fill, but cannot do so without having the gas available to meet the occupants basic needs.

Today, licensed plumbers find it increasingly more difficult to navigate through the process of gas pipe installation and repair. Owners demand an immediate response and for the proper actions to be taken to activate their gas systems. If it takes too long to do or it becomes too complicated and expensive to accomplish a task, some people will try to bypass the process. Unfortunately, that circumvention could lead to the endangerment of public safety. If the Utility discovers any illegal activities they will immediately take measures to mitigate the hazard until gas can be safely restored. Unfortunately, there is no current requirement that these violations be immediately reported to the DOB. They are generally reported on a monthly basis and we are not sure what actions the DOB may take when they are received.

One example of a potentially hazardous condition is the illegal conversion of 1-2 family homes from oil to gas.

The Utility may become aware of this when non heating customers start to have large increases in consumption. In that case the utility may go to the site and ensure there are no safety issues. If the Utility verifies that there was no DOB permit for this work, they should report it to the DOB. An illegal oil to gas conversion can have many possible negative consequences. An undersized gas meter can fail if it is exposed to too much load. Under firing an appliance and an undersized chimney can cause carbon monoxide issues. The oil company and the Fire Department are generally not notified and the oil tank may not be properly abandoned. Customers on automatic delivery schedules could have oil delivered and have a major spill inside of the house. This example illustrates another possible consequence of unlicensed plumbing work.

DOB PERMITS

If the gas supply to the building is shut down due to a leak, there needs to be a process in place to immediately obtain a work permit to repair the condition and restore the gas. Presently in most cases the licensed plumber can follow the Emergency Work Notification (EWN) procedure to start work immediately. In cases where the EWN process cannot be utilized, then gas restoration can become very complicated. The DOB does not consider the restoration of cooking gas to buildings with less than 9 units to be an emergency condition. If you follow the emergency procedure and request an Emergency Work Notification (EWN) you will have to file your LAA application manually. The turnaround time for that can be as little as one day if you are willing to go to the LAA office, wait in line and plead your case. If you choose to drop it off, it could take weeks to obtain the permit. Until a permit is issued you cannot conduct any required inspections.

When you file for a work permit, you may be required to prove the legality of the existing appliances. If the existing appliances were installed since the BIS system was implemented, then you may find the appliance listed as being filed. If that is the case, you may simply be able to reference the prior permit on your application. If you cannot prove that the appliance was legally installed, you may not be issued a permit. If you tell your customer that you could fix their gas leak and get their restaurant

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back in business in two days except you cannot prove it “legally exists” then you will probably not make a sale that day. What’s worse is that the owner of that business may tell other restaurant owners about his negative experience. Restaurants operate on very low margins and disruption to their businesses can cause irreparable harm. If faced with their perceived choice of staying in business or circumventing the rules than anything can happen.

Many projects are able to be electronically filed. An example of this can be gas fired boiler emergency replacement. You can request to utilize the EWN process or E file for a work permit. You must check for the legality of the existing appliance on BIS. A violation may also prevent a EWN from being granted. If you research the buildings violation history and discover that there is an open violation for work without a permit then you cannot E file. You must manually file the application and submit an L2 form to try and override the violation. If the violation and the proposed work are in the same space (such as the basement) then you may be required to pay the violation fees first, prior to obtaining the work permit. Plumbers may be forced to call the owner and tell them that in addition to your fees for the new boiler, they will have to potentially pay thousands of dollars to satisfy the violation in order to provide heat to their building. That call may end with the owner requesting their deposit back. Who is going to be called to do that boiler installation?

Many plumbers receive calls to install a new gas fired hot water heater to replace a coil in an existing boiler. Generally owners want any work to start immediately. A plumber checks and finds out that he cannot e file this work. It requires supporting documentation and therefore has to be manually filed. Since it is not an emergency it may take several weeks to obtain a permit. Unlicensed individuals have no requirements to submit any documentation and can start the work immediately.

Plumbers generally only get paid when the gas is turned on. You may be able to obtain a permit, do a repair and conduct an inspection within 3-4 days. You can then submit OP-98 results to obtain gas authorization for a project. However, when the inspector reviews the paper work, he may determine that you omitted a phrase in the application description or some other bit of information. He refuses to authorize gas and requires you to file an amendment. Amendments have to be manually filed and can in some cases take months to be processed. The

moral of this section is that if you make the process too hard, take too long and cause it to be too expensive, you may unintentionally cause some people to look for ways to circumvent the system. At times these regulations and procedures may seem to sometimes serve as a way to slow down licensed plumbers and yet have no effect on handymen, supers and unlicensed individuals.

DOB CODES

On December 31, 2104, the latest version of the FGC came into effect. Certain code revisions may impact the repair, alteration and installation of gas piping systems. Section 406.1.3 requires a piping system to be tested as a whole. That means that if you add a branch line to an existing system, you must test the entire system.

The 2008 Code had permitted the testing of the new section only. Another change is the ability to install gas piping in public corridors at the lowest level under certain conditions (401.5.5). One of these conditions is that the piping has to be welded. If interpreted literally, that would require a plumber to weld all fittings on that gas line that are located in the public corridor. These changes are in addition to the 2008 code prohibitions against the installation of gas piping in fire rated construction, rooms that house a fire pump and a public corridor.

These prohibitions could make it very hard to install gas piping in an existing building. They can have unintended consequences, such as causing owners to seek out persons other than licensed plumbers to install their new or replacement gas piping. Approximately two years ago, the Department attempted to address some of these issues with the introduction of the Building Bulletin 2013-006. This bulletin covered the alteration, replacement and repair of gas piping in existing buildings. It did not however address the installation of new piping or the installation for piping in public corridors. The bulletin also created the requirement of special enclosures for gas piping installed under certain conditions.

Centralized authority at the DOB for code interpretation and procedures. In the past there was a Central Chief who was in charge of all code interpretations and procedures. Currently, plumbers are faced with the prospect of varying code interpretations in different boroughs. In 2008 the ICC Code was adopted for the purpose of having a code in place that would make it

easier for design professionals to work in NYC. As time has gone by, there have been many “NYC” changes added to the FGC. These changes have created confusion among the design professionals and the licensed plumbing community. Are all of these changes necessary to increase public safety? Do they make owners feel it is too difficult and costly to comply with some of these changes? An example of this is an owner who wants to add a new energy efficient gas appliance to their roof top mechanical room. The owner hires an engineer to design the system and they find the only viable route for the gas piping is through a public corridor. The gas pipe installation is prohibited at that location. Will the job move forward anyway? If it does who will do the installation and will it be stopped at any point of the permitting or inspection process?

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ENFORCEMENT

Who is responsible for enforcement of the Code? At the DOB there is a Deputy Commissioner of Enforcement, a Chief of Central Plumbing Enforcement and Internal Audits and Discipline (IAD). The Buildings Special Investigative Unit (BSIU) is a part of the NYC Department of Investigation. In addition, there is the License Board that is mandated by Code to advise the Commissioner regarding allegations of illegal practices on the part of licensed plumbers.

The IAD's function in regards to plumbing, is to address complaints of unlicensed plumbing in NYC. This includes illegal advertising as well as actual field work. In the past, they have conducted actual stings in an effort to round up unlicensed plumbers. When applicable, they should refer potential cover-up plumbers to the BSIU, so that they can make a case against the licensee. Thanks to the work of an industry organization, the penalty for unlicensed plumbing work was increased to a fine of \$2,500.00 for each person on the job, for the first offense with a default penalty of \$12,500.00 (Section 3-13 of Subchapter G of Chapter 3 of the Rules of the City of New York.) Has that worked as a deterrent? Published DOB records indicate that in 2014 only eight persons were charged and possibly convicted of an unlicensed plumbing offense. In some cases, the fine may have been mitigated down. The disposition of each case has not been made public.

The BSIU handles investigations involving misconduct of licensed plumbers and design professionals. The BSIU has investigators that will, when warranted, open cases against plumbers. We are unsure of the exact resources that are being allocated to investigate licensed plumbers. The DOB website lists a total of five actions that were taken against plumbers in 2014. The disposition of each case has not been made public. The website also indicates that since 2011, no actions were taken against design professionals. To the best of our knowledge, the DOB commissioner does not exert any direct control over the BSIU unit. Instead they operate under the direct control of the Department of Investigation Commissioner. The DOB has a Deputy Commissioner of Enforcement, who has the Chief of Central Plumbing Enforcement working directly under him. Part of this unit's job is to perform audits of licensed plumber's filings to ensure that all work

was done per code and matches the plans and permits. They also do LAA audits and spot check inspections. The unit issues fines when required and should make referrals to the BSIU of licensed plumber misconduct when required.

The duties of the DOB License Board are listed in section 417 of the Administrative Code. In the past, the Board members were presented with cases when a plumber was accused of violating the terms of their license. The Board was able to interview the plumber, review the evidence and make a recommendation to the Chairperson as to if a fine should be given to the licensee or if steps should be taken to revoke their license. Today the Chairperson of the Board has stated that the code is no longer interpreted to allow for Board members to participate in these cases. All investigations and prosecutions are done in private. The DOB website lists disciplinary actions that were taken, but does not list the specific reason for those actions. The role of the Board members has been limited by the DOB to only reviewing application for the licensed plumber and fire suppression licenses. The meeting scheduled for April 2015, was cancelled due to no activity. If the Board was functioning as mandated, there would be plenty of opportunity for the Board to advise the Chairperson of possibly illegal activities that exist today that could potentially cause another tragedy.

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THE MPC RECOMMENDED SOLUTIONS TO INCREASE PUBLIC SAFETY REGARDING GAS PIPING

DEPARTMENT OF BUILDINGS:

Permits:

- Modify the permit process to allow for immediate permit issuance for gas and appliance restoration work to existing occupied buildings.

Codes/Policies/Procedures:

- Creation of a new Existing Building Code that will allow for the safe repair, alteration and installation of fuel gas piping that mirrors the 1968 gas code and the ICC Code.
- Create a centralized source for code interpretation/policies and procedures.

Enforcement:

- Creation of a BSIU/IAD/Enforcement/License Board member task force to combat illegal activities and enforce the current laws and regulations. This group would investigate and prosecute both licensed and unlicensed individuals.
- Ability for all DOB personnel to report potentially illegal activities.
- Restoration of the Licenses Boards code mandated duties.
- Transparency.

MAYOR'S OFFICE:

- Support of the Department of Buildings initiatives to make the changes required to increase public safety.
- Provide the DOB Commissioner with the ability to quickly fill essential vacancies.
- New public awareness campaign to make the most vulnerable residents aware that it is imperative to call 911 and that the responders would investigate and

shut only when necessary. Also expand on the new streamlined process that will allow gas to be safely restored quickly.

CITY COUNCIL:

- Legislation to increase the fines and penalties for illegal plumbing.
- Consistent oversight of the Department of Buildings.
- Effective oversight/ communication with the Utilities

UTILITIES:

- Immediate reporting of any illegal activities to the DOB.
- Priority gas service installation for existing occupied buildings.
- Priority for gas restoration to existing occupied buildings.
- Expanded use of emergency repair processes when permissible.
- New awareness campaign of the importance to call if they smell gas and those responders will investigate first and shut the gas down only when warranted by safety concerns.

PLUMBING INDUSTRY:

- Maintain a better awareness of the current codes, policies and procedures in place to conduct gas installation and repair operations.

INSURANCE COMPANIES:

- Cover-up plumbers and unlicensed individuals are committing insurance fraud. Investigate them and in cases where appropriate drop their coverage which will prevent them from conducting business with the DOB.

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