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City levies fines, but fails to collect over half-billion from landlords

Flaws in system let owners continue construction despite violations



By

Joe Anuta



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566 HUDSON ST.: Landlord 9300 Realty accumulated \$69,400 in fines here over seven years, the Cooper Square Committee said. The balance on the building is now \$43,000.

Photo: Propertyshark.com

Steven Croman holds the dubious distinction of having ended 2015 with more than \$1 million in unpaid building- and construction-code violations on properties he owns in New York City, according to research by the Cooper Square Committee, a tenants' rights group. He continued to receive city permission for construction on his buildings, even though some of the fines had been unpaid for as many as seven years.

The fines that Croman and his firm, 9300 Realty, had accrued showcase the city's inability to collect about \$1.6 billion in quality-of-life fines, known as Environmental Control Board (ECB) violations. The city has few means to ensure the fines are paid, giving some landlords and contractors leeway to continue to rack up infractions.

"The city issues quality-of-life violations when people violate construction safety rules, start construction before or after hours, or have dangerous sidewalk conditions—and nobody seems to care," said City Councilman Ben Kallos. "Many landlords and developers treat [the fines] as a cost of doing business."

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A 9300 Realty spokesman disputed the \$1 million figure, and said the firm has paid the city hundreds of thousands of dollars since the nonprofit's study.

Kallos is sponsoring bills to give the Department of Finance, which collects fines, more power. One would put a lien on buildings if a big enough balance has accrued (this can be done now with single-family homes).

The legislation was proposed to help fix a flawed system that the city continues to rely on to curb potentially dangerous behavior. In February, Mayor Bill de Blasio and Buildings Commissioner Rick Chandler said they were quadrupling construction penalties. Yet similar fines issued by the Buildings Department, with accrued interest, make up nearly half the \$1.6 billion owed to the city. The rest come from other agencies that also issue violations.

In addition to the Cooper Square Committee, Croman's 9300 Realty has been accused by New York state Attorney General Eric Schneiderman and Manhattan Borough President Gale Brewer of harassing tenants, in some cases by using intrusive renovations to oust rent-regulated households. As of mid-December, when Cooper Square compiled its research, 9300 Realty had fines levied on about 100 properties it controls through numerous limited-liability companies, according to Cooper Square. The violations varied, from failing to correct unsafe conditions to performing work without a permit and using an apartment as a temporary residence, though Croman's firm blames these infractions on tenants renting out rooms on Airbnb.

"Landlords looking to convert rent-regulated apartments to luxury have to get rid of tenants to do it, and construction-as-harassment is one of their main tools," said Cooper Square's Brandon Kielbasa.

A Croman spokesman said that the firm invests in buildings prone to violations. "We invest in older properties with the objective of restoring and holding them for the long term," the spokesman said in a statement. "Due to the age of properties in Manhattan, these buildings usually require substantial upgrade and repair work. We take maintenance of our properties very seriously and continually invest to clear building violations and enhance the quality of life for all of our residents."

The company said at the time Cooper Square looked up its outstanding violations, about \$150,000 in payments had not been reflected on the Department of Building's public database. Since then, the firm has given the city roughly \$450,000, though it is unclear how many new violations 9300 Realty received over the same time period. The company also noted that the roughly 350 unpaid violations identified by the nonprofit average to 3.5 per building, though there were additional infractions not counted by Cooper Square because they did not require payment.

Croman's firm was able to keep doing construction work because the Department of Buildings looks only at whether the offending condition has been remedied. Buildings said it can't hold up new permits on account of outstanding ECB fines—and it doesn't want to start.

"Denying permits based on outstanding debt has the potential to drive work underground, making the department's regulatory enforcement efforts more challenging," Assistant Commissioner Patrick Wehle told a City Council hearing in November. "Correcting unsafe conditions is more important than collecting a debt."

The Buildings Department last year revoked the license of a contractor named MRMD NY Corp. for nonpayment of fines. But extracting payment from property owners, who receive about 95% of ECB infractions, is currently left to different regulators.

Once the Buildings Department—or one of 13 other agencies—issues an ECB infraction, the ticket heads to the Office of Administrative Trials and Hearings. Hearing officers levy cash penalties or dismiss infractions. If a penalty isn't paid within weeks, the debt is then kicked over to the Department of Finance and two private collection agencies it hires, which have eight years to recoup the cash before the claim expires.

"This debt is harder to collect than for example parking violations," Jeffrey Shear, a deputy commissioner with the Department of Finance, said at the same November council hearing. "If parking violations go unpaid, then somebody who is incurring the violations is driving around an asset, namely the vehicle that can be seized, to help pay for the violation."

But ECB fines are issued to a person or business. And the wide use of limited-liability companies in real estate makes it hard to find repeat offenders and tabulate how many infractions a landlord truly has. Shear said the Finance Department will look into 9300 Realty, and that the department is reviewing its collection practices.

Legislators have lately been putting an increased focus on improving the collection of ECB fines, with several laws passed or

in the works. Last fiscal year, the Finance Department clawed back \$50 million in outstanding fines, a record, but just 3% of what the city is owed.

Correction: Hearing officers levy cash penalties or dismiss infractions. Jeffrey Shear is a deputy commissioner with the Department of Finance. Those facts were misstated in an earlier version of this article originally published online March 28, 2016.

A version of this article appears in the [March 28, 2016, print issue](#) of Crain's New York Business.

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beergas • 9 months ago

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"Finance Department will look into 9300 Realty" Just take a walk around Hell's Kitchen and see the many warning posters from locals at their properties. At least one knows who they are, it's the Holding Company big brothers you don't see coming.

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a concerned observer • 10 months ago

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Wait, you're telling me that in the last fiscal year, the Finance Dept collected just 3% of outstanding fines, and that was a record high? And that after seven years the violations simply disappear? Wow. The city has a huge problem with enforcement that goes far beyond this case, but it's a doozy.

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nice article,i used kleanview website to know the information about latest innovative products and services.if wish you want please visit www.kleanview.com

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Tim • 10 months ago

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What this article conveniently leaves out is the nature of these fines, and the fact that many of them are strictly administrative. In my own experience working in property management, I've encountered plenty of these fines and violations, and many of them have more to do with not filing compliance documents on time rather than an egregious safety violation.

Case in point is the cooling tower registration. In 2015, suddenly a Legionnaires outbreak in the Bronx leads to a new ECB regulation (local law 77), costing owners money to inspect their water tanks (irrespective of the fact that most landlords had these tanks disinfected during routine service, or had discontinued usage) Now, by not filing correctly, or not logging in the correct information on the forms can run a single incident (a 30 or 40 unit building) a first offender gets a \$2000 fine. Even filing late, or

making mistakes during filing can run a \$800 fine.

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comment flagged ➔ Tim • 9 months ago

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do you take a similar flippant stance on your tenants not filing rent on time?

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Qel Hegh ➔ Tim • 10 months ago

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A fine is a fine. File on time or pay the piper. It will get worse, now that DOJ doesn't want criminals to be required to pay their fines, you can bet that admin code violations will become a revenue source. Don't like the fines don't do work in NYC.

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Anon resident • 10 months ago

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All over the city there is scaffolding around new buildings, and especially those built by HPD. Nobody is tracking scaffolding, to year of building, to why the building needs scaffolding in the first place. HPD doesn't even bother to respond to foil requests or complaints by constituents, and good luck trying to get the Mayors office to address these concerns.

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HenryLoose ➔ Anon resident • 10 months ago

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Local Law 11 (The "Facade Inspection Safety Program":) requires that all brick facades six stories and over be inspected every five years.

Rather than remove the scaffolding required for inspection, after the job has been completed, some landlords are leaving it up. Their reasoning: it's easier to let the scaffolding remaining than to remove it and then reinstall it.

Of course, some suspicious New Yorkers might interpret the semi-permanent scaffolding as a form of protest against Local Law 11, but, "hey, you don't like it, move."

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