

July 11, 1994

Buildings Department Irks Niche Professionals

By THOMAS J. LUECK

Can't fight City Hall? Try the New York City Department of Buildings.

"They are trying to prevent me from earning a living," said Carlos Burbano, owner of CCBS Consulting, as he stood in line the other day at the department's fortresslike headquarters in lower Manhattan, his arms filled with paperwork and his voice rising in anger.

Judith Faulkner, standing in the same line, complained: "I have one little specialty that is very useful to the city. Now they are trying to shut me down."

That specialty is the arcane business of "expediting" building permits, blueprint inspections and code applications through what may be the nation's most complicated big-city construction regulations. And for 1,600 registered expeditors doing business with the Department of Buildings, a regulatory gauntlet has been thrown down.

No one denies that the expeditors perform a necessary and probably permanent job. Much of their work is standing in line -- or adroitly jumping from line to line -- as representatives of architects, engineers and building owners who have neither the time nor patience to deal with the department's regulatory maze.

But in what may result in a court battle, the city's Commissioner of Buildings, Charles A. Miele, is threatening to bar the expeditors from technical discussions with the department's assorted plan examiners, borough superintendents and technical personnel. **Crossing the Line?**

"I'm not trying to put anybody out of business," said Mr. Miele, who left his practice in February as a partner in a Queens architecture and engineering firm to take over the department. No stranger to the business of expediting, Mr. Miele, a licensed engineer, got his start in the 1950's working as an expeditor himself.

Still, he said, "a clear line has been crossed from expediting into architecture and engineering." In official memos, distributed among the expeditors in April and May, he said he would prohibit them from engaging in "architectural and engineering discussions" with his staff.

The discussions might involve such questions as whether the city's minimum requirement for apartment room size, 150 square feet, can be slightly amended in a homeless shelter or whether requirements for the placement of smoke detectors can be altered if additional detectors are installed.

Only people who are licensed as architects or engineers, or who are employed full time by architects or engineers, would be allowed to take part, according to Mr. Miele's dictate.

"This is purely and simply a legal issue," he said in an interview in his 14th-floor office at the Department of Buildings, citing the New York State Education Law. In part, that law says that people must be licensed as architects or engineers to engage in "consultation" or "evaluation" in architectural or engineering work.

Nine floors below, where the legion of expeditors make their daily rounds, few people found his position either pure or simple. Raw Nerves

"My theory is that this rule change is intended to allow architects and engineers to recapture some income," said David Trachtenberg, owner of Novation, an expediting firm, and president of the New York Association of Code Consultants, an expediting industry group. He said the group would fight Mr. Miele in court.

In the face of virulent opposition, Mr. Miele has delayed the new rule, which he once announced would be in place by July 1.

"This issue has touched a very raw nerve," he said, adding that some letters to his office on the proposed rule had been "appalling in their filth." Now, although it may take until the end of the year and a court ruling, he said, "I believe the legal issue is clear and I intend to see this resolved."

Whatever the outcome, the battle has underscored the importance of an industry that operates largely behind the scenes in the huge bureaucratic theater of New York, and serves as a reminder of how government regulation creates both added costs for industry and profitable opportunities for those who can smooth the system's bureaucratic edges.

Although expeditors ply their trade in the corridors of several regulatory agencies, including the Department of Transportation and the Department of Environmental Protection, the Department of Buildings has always been their reason for being.

That is because of the vast layers of building regulations that must be met: separate codes for buildings that went up before and after 1968, fire safety codes, zoning ordinances, asbestos removal requirements, a law mandating access for the handicapped and dozens of other legal strictures.

The result is big business for expeditors, who, according to Mr. Trachtenberg's group, take in \$30 million a year. Typically, an expeditor will charge \$2,000 to handle a building permit application, even if it is routinely approved. Mr. Burbano said he charged \$90 an hour for his services. From Line to Line

By far the biggest part of an expeditor's job -- at least as measured in time -- is moving from line to line, and from application to application, at Department of Buildings offices in all five boroughs.

Many people in the business are inexperienced college students or others who are hired simply to stand in line and deliver papers. Indeed, the most highly paid expeditors, like Mr. Burbano, sometimes hire expeditors of their own for the most tedious waits.

All adhere to long-standing rules of conduct -- sometimes mystifying to outsiders -- that are intended to speed the passage through bureaucratic red tape. In some corridors of the department, the expeditors arrive early each morning and leave their briefcases or stacks of documents lined up on the floor in what appear to be small ceremonial mounds, but are in fact intended to hold their places for appointments hours later in the day.

Both Mr. Miele and the expeditors say that less than 5 percent of the work includes technical discussions with Department of Buildings personnel, and those tasks are usually reserved for expeditors with years of experience in reading the fine print of building regulations.

But it is those discussions that many claim to be the most critical service the expeditors perform, since they relieve licensed architects and engineers of the need to spend hours or days waiting for appointments with department inspectors.

The expeditors are already prohibited from signing applications on behalf of their clients or making any changes

in the blueprints or other paperwork they submit for their clients. They say the discussions that would be barred by Mr. Miele simply enable them to act as liaisons and messengers between the architects and engineers who pay their fees and the inspectors who want more-detailed information on a blueprint or permit application.

"We are not practicing architecture, but negotiating over procedure," said Mr. Trachtenberg, who, like many expeditors, often represents five or more clients in a single visit to the department. If Mr. Miele succeeds in imposing his new rule, "there will be architects and engineers lined up way down the halls," he added. Support Is Lukewarm

Among architects, engineers and building owners, Mr. Miele's proposal has drawn mixed reviews. Although some say it would increase their costs and professional aggravations by forcing them to assign their own staff members to the Department of Buildings, or hire additional workers, others maintain that it would increase the level of professionalism.

Some also acknowledged that the city's weak economy and construction downturn had left many architectural and engineering firms with little work and ample time to take on a larger part of the burden in dealing with city regulations.

Under the new rule, "we would be doing more of the job we were licensed to do," said Michael Zenreich, a Manhattan architect and chairman of the code committee of the New York City chapter of the American Institute of Architecture. He said some architects, particularly those with small firms, would welcome any new work, even if it meant dealing with the Department of Buildings bureaucracy.

Mr. Zenreich's committee sent a letter to Mr. Miele last month, supporting his proposed restrictions on expeditors. But the support is lukewarm.

"The Buildings Department feels strongly on this one, and we are willing to agree, even though it will inconvenience some of our people," Mr. Zenreich said. But he added that architects "will continue using a lot of expeditors -- they are part of the team."