

Matt,

I'm responding to your questions below. The City may legally adopt an ordinance which enacts fines for inoperable elevators. Section 7-148 of the Connecticut statutes authorizes ordinances to protect the public's safety and welfare, and making efforts to keep elevators operating falls within this statute's scope. This same state law limits the amount of fines to \$250. I am not aware of any state statute that would restrict the City's ability to pass such an ordinance pursuant to Section 7-148.

While it is not required by state law that such an ordinance provide an appeal process, the practice of the Board of Representatives in more recent times is to include a provision in ordinances that they may be enforced through the civil citation process, which process includes an appeal – a hearing before a local hearing officer who is authorized to dismiss fines upon a determination that the person fined is not liable for the fines.

As far as your question about constraints on the timeframe for when fines should begin accruing on an inoperable elevator, my opinion is that fines should not begin to accrue until a reasonable time to repair the elevator has passed. There are obstacles to immediate repair of elevators, such as the time lag between the date when an elevator breaks down and the date a repair person inspects it, and a further time lag while repair parts are on order but have not arrived. Issuing fines before a property owner can reasonably complete repairs strikes me as an action that would be overturned on appeal or through a court challenge, as the case may be.

Michael Toma
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From: Quiñones, Matt <MQuinones@StamfordCT.gov>

Sent: Wednesday, December 7, 2022 11:07 AM

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Subject: Legal Opinion Request: Ordinance granting city authority to impose fines on property owners for inoperable elevators

Doug,

I'm submitting a request for a legal opinion.

Purpose

The Operations Department is interested in pursuing the creation of an ordinance which would grant the city the authority to issue fines for property owners who fail to fix an inoperable elevator within a given timeframe.

Legal Opinion Request

I would like to explore (a) the legality of passing a local ordinance with the stated purpose, (b) potential constraints to establishing the fine amount at a municipal level, (c) potential restrictions related to such an ordinance by state statute, (d) any required appeal process, and (e) any potential constraints to setting the "timeframe" for inoperability.

Background

The State of CT issues an elevator certificate, conducts annual inspections, and handles any complaints involving elevator safety issues. The Building Department receives a significant number of complaints of elevators just not working. The state has no authority to cite the owner of the building to get them to fix it. The only authority the building department has is if the number of operable elevators is less than what was required under chapter 11 Accessibility in the IBC at the time the CO was issued.

As of now, the Health Department receives a complaint and immediately sends it to the state building inspector's office. If the elevator is safe (just not working) they send it to the Building DPT and are informed it is a tenant/landlord dispute due to the lack of authority to respond.

The person making the complaint has now gone full circle with no help. New Haven and Hartford have housing agencies (New Haven has a group called Livable City Initiative) that is in addition to the health department but has authority to issues violations. The state building inspector has informed us the issue is up to the local town to have an ordinance that allows us to enforce action on the building owner to keep the elevators operating.

I'm happy to jump on a call to discuss this further with you or whoever you assign.

Thanks, Matt

Matthew Quinones
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