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DOI AND MANHATTAN DISTRICT ATTORNEY ANNOUNCE ARREST OF ENGINEER ON CHARGE OF FALSELY CERTIFYING A SAFETY INSPECTION REPORT FOR THE FAÇADE OF A MANHATTAN BUILDING WHERE A PIECE OF TERRACOTTA FELL AND KILLED A TWO-YEAR-OLD GIRL

--DOI Investigation Also Finds Widespread Failures By Buildings Department to Enforce Safety Inspection Law--

Today, Department of Investigation ("DOI") Commissioner Mark G. Peters and Manhattan District Attorney Cyrus R. Vance, Jr., jointly announced the arrest of a Professional Engineer ("PE") on a charge of falsely filing a façade inspection report for a Manhattan senior residence on West End Avenue when, in fact, the PE had never been to the building and failed to comply with laws regarding façade inspections. In May 2015, terracotta from that very building's façade fell off, striking and killing two-year-old Greta Greene as she sat on a bench in front of the building with her grandmother. As a result of this tragic incident, DOI began an investigation of the circumstances that led up to the child's death and examined how the Department of Buildings ("DOB") enforces façade inspections across the City as required by Local Law 11, finding a systemic failure by building owners across the City to meet the requirements of Local Law 11 and by DOB to effectively enforce the law's compliance. Those findings are outlined in a Report released today by DOI. The Report also issues recommendations to strengthen DOB's monitoring of the law, hold building owners accountable, and prevent dangerous conditions. A copy of the Report is attached to this release and the Report with appendices can be found at the following link: <http://www.nyc.gov/html/doi/html/doireports/public.shtml>

DOI Commissioner Mark G. Peters said, "This case represents massive breakdowns in basic public safety rules. A licensed engineer falsified safety forms obscuring a building's danger. He is now under arrest. While DOB did not get this warning, it did ignore other red flags, and failed, on a wholesale basis, to enforce a law designed to prevent the very tragic death that occurred earlier this year. Fortunately, after meetings with DOI the City has now moved swiftly to remedy this problem."

Manhattan District Attorney Cyrus R. Vance, Jr., said: "Far too often, licensed professionals cut corners and break the law, which puts at risk the safety of others. I would like to thank Commissioner Peters and the Department of Investigation for their partnership in this case, which is an important step to ensure the integrity of our City's buildings, prevent future tragedies, and maintain safe conditions for all New Yorkers."

MAQSOOD FARUQI, 55, of Jackson, N.J., was arrested on a charge of Offering a False Instrument for Filing in the First Degree, a class E felony. If convicted, a class E felony is punishable by up to four years in prison.

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According to DOI's Investigation, in 2011, FARUQI falsely certified in a report that he complied with Local Law 11 requirements by supervising a façade inspection of a building known as the "Esplanade" at 305 West End Ave. in Manhattan, ultimately concluding that the Esplanade's façade was "safe." However, the investigation revealed that FARUQI had never visited the site nor seen the Esplanade's maintenance records or prior façade inspection reports. FARUQI filed his inspection report stating that he directly supervised the inspection and reviewed the proper documents to assess the façade's structural integrity, writing, "All conditions identified in previous reports as requiring repairs have been corrected."

In March 2014, a piece of the Esplanade's façade fell to the sidewalk in front of the building, though DOB was not notified of the incident, and in October 2014, seven months before the death of Greene, a private consultant inspecting an adjacent building emailed DOB warning the agency of a "scary" crack on the Esplanade's façade that he believed DOB should "get someone over pretty quick" to address. Though his warning was acknowledged by a member of DOB's Façades Unit, the agency took no action – failing to send an inspector or require any remedial safety work.

DOI widened its investigation to examine DOB's procedures to ensure compliance with Local Law 11 citywide and uncovered that when buildings fail to file façade inspection reports, DOB primarily reacts by issuing violations, rather than physically visiting and inspecting these sites to ensure their safety. DOI's investigation found that approximately 1,000 buildings failed to file their façade inspection reports – 101 of which were City-owned buildings. As of February 2015, 2,490 buildings filed façade inspection reports citing "unsafe" conditions and by mid-summer less than half filed amended reports stating that the unsafe conditions were corrected. DOB's response to these buildings is inadequate. While the Façades Unit inspects buildings, if notified, of unsafe conditions during façade inspections, it only strives to inspect 10 to 15 percent of buildings that file unsafe façade inspections reports. DOI's investigation found this response is insufficient to ensure these façades are safe and conditions are being remediated. Even after DOI reported these issues to DOB, the department initially failed to expedite its inspections.

To increase public safety and ensure adequate compliance with Local Law 11, DOI has made the following policy and procedure recommendations to DOB, which have been accepted and are in the process of being implemented:

1. Create a database that tracks the history of each building required to file a façade inspection report under Local Law 11 so reports can be pulled and data analysis conducted;
2. Allow the Buildings Information System ("BIS") to have the capability to upload façade inspection reports and/or allow Qualified Exterior Wall Inspectors ("QEWIs") to upload all of the information contained in the report to BIS so that the information is easily accessible to the public;
3. Implement a system that alerts DOB's Façades Unit when time periods, as set forth in Local Law 11, have passed and not been complied with by individual buildings;
4. Re-inspect buildings where façade violations were issued every three months until the situation has been remedied;
5. Inspect all building façades within 180 days of the filing of reports citing unsafe conditions. If necessary, erect sidewalk shedding immediately;
6. Conduct inspections of all buildings that do not file façade inspection reports within 180 days of the date they are due. Take steps to install a sidewalk shed if necessary;
7. Conduct an additional random audit of 25% of all façade report filings. This should include, but not be limited to, buildings that file initial reports of safe conditions or reports listing the building as "safe with a repair and maintenance program";

8. Create a written protocol within the Façades Unit for accepting façade complaints, focusing on tracking all incoming complaints, immediately inspecting such conditions, and logging the disposition;
9. Require building owners to file additional certifications along with Local Law 11 filings. The owners should be required to attest to hiring the QEWI and certify that an inspection was conducted, the owner has reviewed that report, and the owner is aware of his or her obligation to notify DOB of unsafe conditions pursuant to N.Y. City Admin. Code § 28-301.1; and
10. Require that, if a QEWI reports an unsafe condition, he or she be mandated to detail in their report what conditions are unsafe, why they believe them to be unsafe, how imminent the danger is and what, if any, protection is immediately needed for the public.

An indictment is an accusation. A defendant is presumed innocent until proven guilty.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

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New York City Department of Investigation

Investigation into May 2015 Fatality from a Piece of Terracotta Falling Off Building Façade and the City Department of Buildings' Failure to Enforce Façade Inspections and Reporting

**MARK G. PETERS
COMMISSIONER**

November 2015

EXECUTIVE SUMMARY

On May 17, 2015, a piece of terracotta fell off the façade of a building known as “The Esplanade,” a residence for seniors at 305 West End Avenue in Manhattan. The terracotta fell eight stories striking a two-year-old child in her head as she sat on a bench in front of the building with her grandmother.¹ The child, Greta Greene, died from her injuries the following day.

DOI investigated the circumstances leading up to the incident and also examined how the Department of Buildings (DOB) enforces façade inspections across the City as required by Local Law 11.² This broader investigation revealed DOB’s inadequate enforcement of Local Law 11 and façade maintenance requirements across the City.³ Specific to the Esplanade, the DOI investigation uncovered failures by the building’s owner and a licensed professional in complying with statutory requirements laid out in the Local Law, as well as failures by DOB in enforcing compliance at the Esplanade and in responding to a very specific complaint they received about the façade of the Esplanade just seven months before the piece of terracotta broke off the front of the building and killed Greta Greene. Specifically:

- **February 2005 – February 2007:** The Esplanade was mandated to have a façade inspection report filed with DOB between February 2005 and February 2007, but no such report was filed. In response, DOB issued a violation to the Esplanade for failure to file the report. As the years passed, and the report still was not filed, DOB’s Local Law and Façades Unit continued to issue violations, but did not conduct a field inspection to ensure the façade was safe.⁴ The report, if filed and certified by a Registered Architect (RA) or Professional Engineer (PE), would have alerted DOB to problems with the structural safety

¹ Photographs taken at the Esplanade by the New York City Department of Buildings (DOB) on May 17, 2015, are included in Appendix A.

² Local Law 11 was initially passed by the New York City Council as Local Law 10 of 1980 in response to the 1979 death of a Barnard College freshman, who was killed when a piece of terracotta fell off of an Upper West side building facade and struck her in the head. Local Law 10 is included in Appendix B-1.

In 1998, the City Council amended the legislation under Local Law 11 of 1998 (passed under Title 27, Article 129 of the New York City Administrative Code and later amended to Title 28, Chapter 3, Article 302 of that same code) due to a number of incidents of debris falling from building facades, as well as partial building collapses and construction accidents. A copy of the NYC Council Committee on Housing and Buildings Committee Report is included in Appendix C.

³ The Local Law requires that all buildings’ exterior walls and appurtenances be maintained in a safe condition and for all buildings over six stories, have facade inspections conducted every five years and file accompanying facade inspection reports with the New York City Department of Buildings (DOB). N.Y. City Admin. Code §§ 28-302.1 – 28-302.2(1), 28.302.4, included as Appendices B-3 and B-4 (updated in 2014).

In addition, the New York City Administrative Code requires owners to maintain their buildings in a safe condition and anyone involved in building operations to notify DOB in writing if he or she has reason to believe that part of the building is dangerous or unsafe. It further states that “[t]he owner shall be responsible at all times to maintain the building and its facilities and all other structures regulated by this code in a safe and code-compliant manner and shall comply with the inspection and maintenance requirements of this chapter [Chapter 3].” N.Y. City Admin. Code § 28-301.1, included in Appendix B-3.

⁴ DOB violation 113007LL1198NRF43140 was issued on November 30, 2007 and ECB violation 36006542X was served on June 11, 2009, ECB 36013111J was served on June 2, 2010, and ECB 36015980K was served on April 28, 2011. Copies of these violations are included in Appendix G.

of the building's façade, including whether repairs, as required by the building's November 2000 mandated façade inspection report, were ever started, much less completed.⁵

- **September 2008 – February 2011:** The Esplanade entered into a contract with D & N Construction and Consulting, Inc. (D & N) in September 2008, to have a façade inspection completed and ultimately to file an accompanying façade inspection report with DOB.⁶ D & N started by first subcontracting façade repair work and eventually in February of 2011, D & N filed an acceptable façade inspection report with DOB on behalf of the Esplanade.⁷ DOI's investigation revealed that in the façade report, a PE concluded that the façade was "safe,"⁸ even though DOI's investigation revealed the PE had never been to the building and, as detailed in this report, failed to comply with the applicable law regarding façade inspections and their accompanying reports.
- **March 2014:** According to an entry made in the Esplanade's front desk diary, in March of 2014 a piece of the Esplanade's façade fell to the sidewalk in front of the building.⁹ As discussed in this report, the DOI investigation uncovered that DOB was not informed of this incident. If DOB had been informed, DOB protocol is to inspect the façade, issue violations to the building owner if any unsafe condition exists, and if necessary, require the owner to erect a sidewalk shed to protect pedestrians from falling debris.
- **October 2014:** Seven months before the death of Greta Greene, in October of 2014, a private consultant who was inspecting a building façade adjacent to the Esplanade, emailed DOB that he saw at least one "scary" crack on the Esplanade's façade and warned that DOB should "*get someone over pretty quick on this.*" His warning was acknowledged by a member of DOB's Façades Unit, but ultimately DOB took no action, failed to send an inspector and failed to require any remedial safety work.
- **May 17, 2015:** A piece of terracotta fell from the Esplanade's façade, killing two-year-old Greta Greene.

⁵ A copy of the Esplanade's November 2000 amended facade inspection report filing is included in Appendix G-2. The original February 2000 facade inspection report filing is included in Appendix G-1.

While the facade inspection report was not filed, DOB issued the following permits on behalf of the Esplanade: In June 2009 DOB issued a permit to install pipe scaffolding, in September 2009 DOB issued a permit to repoint part of the brick chimney wall, in January 2010 DOB issued a permit for installation of a sidewalk shed for remedial repairs. In addition, in March of 2010, DOB issued a stop work order to the Esplanade because the sidewalk shed did not meet code specifications in that the shed did not extend as the code required. These are included in Appendix J.

⁶ A copy of the Esplanade's September 2008 contract with D & N Construction and Consulting, Inc., is included in Appendix E.

⁷ A facade inspection report was submitted on behalf of the Esplanade in September of 2010 and was rejected by DOB for various reasons, including that it was not filed within 60 days of the facade inspection and the history of facade repairs, permits, and violations were not noted. A copy of the September 2010 and February 2011 reports are included in Appendices G-3 and G-4, respectively.

⁸ 1 RCNY § 103-04(a) (defining "safe" as "[a] condition of a building wall, any appurtenances thereto or any part thereof not requiring repair or maintenance to sustain the structural integrity of the exterior of the building and that will not become unsafe during the next five years.") A copy of this rule is included in Appendix E-2.

⁹ This was recorded in a diary kept by the Esplanade, included in Appendix H.

As part of this investigation, DOI examined the measures in place to ensure that buildings across the city maintain their façades and thoroughly reviewed Citywide compliance with Local Law 11.

DOI's investigation revealed that even though all deadlines passed as of February 21, 2013 for timely façade inspection report filings, by mid-summer 2015 approximately 1,000 New York City buildings still had not filed their mandated façade inspection reports. DOB's response to these noncompliant buildings was inadequate, even though the law was first enacted in 1979 after a similar fatality to Greta Greene. Specifically, when buildings fail to file façade inspection reports, DOB primarily reacts by issuing violations, rather than physically visiting and inspecting these sites to ensure their safety.

Additionally, by the end of the reporting cycle in February of 2015, 2,490 buildings filed façade inspection reports citing "unsafe" conditions and by mid-summer, less than half filed amended reports stating that the unsafe conditions were corrected.¹⁰ DOB's response to these buildings is inadequate. While the Façades Unit inspects buildings, if notified, of unsafe conditions during façade inspections, it only otherwise strives to inspect 10 to 15 percent of buildings that file unsafe façade inspection reports.¹¹ This response is insufficient to ensure these façades are safe and conditions are being remediated.

Even after DOI reported these issues to DOB, the Buildings Department initially failed to expedite inspections. Only after DOI informed the Mayor's Office was prompt action taken. At that juncture, the City's response was swift and many of the conditions were remedied.

As a result of this investigation, DOI worked with the New York County District Attorney's Office to arrest Maqsood Faruqi who, in 2011, falsely certified the Esplanade's last façade inspection report. DOI's investigation into criminal wrongdoing with regard to this incident is continuing. Additionally, as detailed in this report, DOI uncovered a systemic failure by building owners across the City to meet the requirements of Local Law 11 and by DOB to effectively enforce Local Law 11 compliance, as well as façade maintenance requirements. Finally, this report lays out

¹⁰ At the end of the last reporting cycle, 2,490 buildings filed facade inspection reports citing unsafe conditions, and during this investigation, approximately 1,006 buildings had filed amended reports stating that the unsafe conditions were corrected, leaving 1,484 buildings with outstanding unsafe condition/s reported.

"Unsafe" is defined as "[a] condition of a building wall, any appurtenances thereto, or any part thereof that is hazardous to persons or property and requires prompt repair. In addition, any condition that was reported as SWARMP in a previous report and that is not corrected at the time of the current inspection shall be reported as an unsafe condition." 1 RCNY § 103-04(a). SWARMP ("Safe With A Repair and Maintenance Program") is defined as "[a] condition of a building wall, any appurtenances thereto or any part thereof that is safe at the time of inspection, but requires repairs or maintenance during the next five years in order to prevent its deterioration into an unsafe condition during that five-year period. 1 RCNY § 103-04(a).

¹¹ The Local Law and DOB rules also requires the license professionals conducting facade inspections to notify DOB at the time unsafe conditions are discovered during facade inspections. N.Y. City Admin. Code § 28-302.3 and 1 RCNY § 103-04(b)(2)(vii). DOB's Façades Unit does inspect building facades when so notified. DOB does not inspect building facades where the licensed professional failed to make such required notification, but still reports an unsafe condition in a facade inspection report.

The Unit does conduct other inspections, including upon the filing of an amended facade inspection reports and upon the request to remove sidewalk shedding.

recommendations and reforms aimed at strengthening DOB's enforcement of Local Law 11 and the Administrative Code, as well as requiring modifications to the façade inspection paperwork submitted by building owners, PEs, and RAs to DOB. These recommendations will hold all of these individuals more accountable for the conditions of building façades and thus help prevent future tragedies.

I. The Esplanade Case: DOI's Investigation Uncovered Deficiencies in Compliance with and Enforcement of Local Law 11 and Façade Maintenance Requirements Contributing to Public Safety Concerns with the Building's Façade.

A. The Esplanade Failed to File a Mandated Façade Inspection Report.

Pursuant to Local Law 11 and DOB's accompanying rules, the Esplanade, like all buildings over six stories, is required to have a licensed PE or RA conduct or supervise a façade inspection every five years.¹² The Esplanade must then file a façade inspection report with DOB that provides details of the inspection and its results.¹³

In fact, a licensed PE concluded in the Esplanade's November 2000 façade inspection report that repairs were needed on the Esplanade's façade to prevent its deterioration before the next mandatory façade inspection in five years.¹⁴ The necessary repairs included replacing brickwork and lintels over certain windows, cracked coping stones, rebuilding some parapets, and replacing cracked brick at window heads.

The Esplanade's next façade inspection report was due to DOB between February of 2005 and February of 2007.¹⁵ DOB's rules required that the status of the previously-reported repairs be noted in this next report.¹⁶ If the repairs were not made, then the building would automatically be

¹² Local Law 11 requires that all buildings over six-stories, which would include the Esplanade and approximately 13,500 other buildings, have facade inspections every five years. N.Y. City Admin. Code § 28-302.1 – 302.2 (requiring facade inspections every five years for buildings over six-stories); N.Y. City Admin. Code § 28-302.2(1) (requiring the inspection to be conducted “by or under the direct supervision of a ‘registered design professional,’” defined as a licensed Professional Engineer or licensed Registered Architect. 1 RCNY § 101-07(a)(13)) and 1 RCNY § 103-04(b)(2)(ii) (requiring the inspection to be conducted by or under the direct supervision of a QEWI, defined as a registered design professional with at least one year of relevant experience (1 RCNY § 101-07(a)(12)). A copy of 1 RCNY § 101-07 is included in Appendix E-3.

¹³ This report must be filed within 60 days of the inspection. N.Y. City Admin. Code § 28-302.4.

¹⁴ The Esplanade's November 2000 facade inspection report concluded facade conditions as “safe with a repair and maintenance program” (SWARMP) because the conditions needing repairs were considered “condition[s] of a building wall, any appurtenances thereto or any part thereof that is safe at the time of inspection, but requires repairs or maintenance during the next five years in order to prevent its deterioration into an unsafe condition during that five-year period into an unsafe condition.” 1 RCNY § 32-03(a), included in Appendix E-1.

¹⁵ The Esplanade; however, did not file a report during 2001 through 2010.

¹⁶ 1 RCNY § 32-03(b)(3)(ii)(J).

deemed “unsafe,”¹⁷ violations could be issued, and the Local Law in effect at the time required the building to correct unsafe conditions within 30 days.¹⁸

The Esplanade made no such filing and in November of 2007, DOB’s Façades Unit issued a violation to the Esplanade for failure to file a Local Law 11 façade inspection report. DOB did not properly follow up when the Esplanade continually failed to file a report. In total, DOB’s Façades Unit issued four violations to the Esplanade between 2007 and 2011, carrying increasing fines for failing to file the required façade inspection report, but the Unit did not conduct a field inspection to ensure that steps were taken to address the specific safety concerns noted in the November 2000 filing.¹⁹ In fact, this investigation revealed that the issuing of violations was the primary enforcement tool used by DOB when buildings failed to file their five year façade inspection report.

DOI learned that in September 2008, the Esplanade accepted a proposal from D & N for a Local Law 11 façade inspection. Instead of immediately preparing and filing such report with DOB detailing the condition of the building’s façade, D & N paid subcontractors to first conduct repairs of the Esplanade’s façade. These repairs included brick replacement, lintel replacement, waterproofing, and repointing of mortar joints. D & N’s owner admitted to DOI that he did not review the Esplanade’s November 2000 façade inspection report, and therefore, there was no way D & N’s owner could have known what repairs the licensed PE previously recommended.

D & N’s owner told DOI that he paid two consultants to inspect the Esplanade’s façade. The D & N owner stated that one of the paid consultants wrote the accompanying façade inspection report deeming the building safe.

B. A Professional Engineer Certified the Esplanade’s Façade was Safe in the 2011 Façade Inspection Report, Despite Never Visiting the Building.

In February 2011, a façade inspection report was filed on behalf of the Esplanade by Maqsood Faruqi, a PE. Faruqi concluded that the Esplanade’s façade was “safe,” even though DOI’s investigation revealed that Faruqi had never even been to the Esplanade.

A Local Law 11 façade inspection must:

1. be conducted by or under the direct supervision of a Qualified Exterior Wall Inspector (QEWI), who is a Professional Engineer or licensed Registered Architect with at least one year of relevant experience;²⁰

¹⁷ 1 RCNY § 32-03(b)(6)(ii), repealed in January 2011, and replaced by 1 RCNY § 103-04(a).

¹⁸ Unsafe conditions had to be made safe within 30 days of filing a facade inspection report. N.Y. City Admin. Code § 27-129(d)(1)(b) later amended by N.Y. City Admin. Code § 28-302.2(5)(1) that extended the time to correct unsafe conditions to 90 days. N.Y. City Admin. Code § 27-129 is included in Appendix B-2.

¹⁹ See fn. 3.

²⁰ N.Y. City Admin. Code § 28-302.2(1) (requiring the inspection to be conducted by or under the direct supervision of a “registered design professional,” defined as a licensed Professional Engineer or licensed Registered Architect 1

2. include a careful review of the previous façade inspection report,²¹ as well as any other available façade inspection reports;²²
3. have an inspection program designed by the QEWI for the specific building being inspected;²³ and
4. as of January 2011, include a final physical inspection by the QEWI.²⁴

DOI determined that Faruqi, who holds a license as a professional engineer, had never been to the Esplanade, nor did he ever see any of the Esplanade's maintenance records or prior façade inspection reports. During an interview, Faruqi admitted to DOI that he never personally inspected the building. According to the owner of D & N, Faruqi was hired after the façade inspection was completed, therefore, Faruqi could not have designed a façade inspection program or been involved in the inspection. Despite this, Faruqi certified that the building's façade was "safe."²⁵ In fact, the report that Faruqi submitted falsely stated that he directly supervised the inspection and reviewed documentation relating to the building's façade, including "maintenance inspection reports, repair records and maintenance work tickets . . . in order to assess the structural and watertight integrity of the façades." In addition, despite admitting to DOI that he did not review prior façade inspection reports, he certified in his report that "all conditions identified in previous reports as requiring repairs have been corrected."

RCNY § 101-07(a)(13)) and 1 RCNY § 103-04(b)(2)(ii) (requiring the inspection to be conducted by or under the direct supervision of a QEWI, defined as a registered design professional with at least one year of relevant experience (1 RCNY § 101-07(a)(12)).

²¹ N.Y. City Admin. Code § 28-302.2(2).

²² 1 RCNY § 103-04(b)(2).

²³ 1 RCNY § 103-04(b)(2)(iii).

²⁴ 1 RCNY § 103-04(b)(2)(viii).

²⁵ The results of facade inspection reports, including Faruqi's February 2011 facade inspection report for the Esplanade, are reported on DOB's website and are available to the public. In fact, a building consultant relied on the results of Faruqi's filing when preparing his own report. Specifically, the consultant was hired by a company that was interested in purchasing the Esplanade to conduct a "Property Condition Assessment" of the building.

In his report, the consultant states that "[t]he exterior face of the building is in good condition. According to Local Law #11/98 Inspection – 7th Cycle filing, dated February 7, 2011, the building is safe with a repair and maintenance program (SWARMP)." The consultant explained to DOI that he concluded that the building's facade was in "good condition" based on the Esplanade's Local Law 11 February 2011 report filing as he saw reported on DOB's website and from what he could see with his naked eye while standing on the sidewalk. The Consultant's "Property Condition Assessment" report is included herein as Appendix I.

C. The Esplanade's Front Desk Diary Refers to a Piece of the Building Falling to the Sidewalk in March of 2014.²⁶

DOI learned that approximately 14 months before Greta Greene was struck and killed by the falling terracotta, a piece of the front façade fell off the Esplanade onto the sidewalk. This information was found in an entry dated March 22, 2014 in a diary labeled "Front Desk."²⁷ It states:

"A piece of the building fell on the sidewalk! I (Trini) called Jack and he said to place the yellow combs in front of the building."

The New York City Administrative Code requires owners to maintain their buildings in a safe condition and anyone involved in building operations to notify DOB if he or she has any reason to believe that part of the building is dangerous or unsafe.²⁸

DOI interviewed the Esplanade's Executive Director and Superintendent. They both stated that a piece of terracotta fell from the building's 14th elevation façade in the southeast corner. Neither called DOB in response to this incident.²⁹

D. DOB Failed to Take Any Action after Receiving a Complaint about a Deteriorating Condition on the Esplanade's Façade.

On October 6, 2014, an experienced private building consultant notified DOB in emails of an unsafe and "scary" façade condition at the Esplanade. Specifically, while the Consultant was inspecting a building south of the Esplanade, the Consultant looked across the street and saw a large wavy crack and a disjointed portion of terracotta on the Esplanade's south façade. The Consultant also observed other deteriorating conditions on the façade that he recommended DOB inspect.

Later that night, the Consultant sent an email to DOB's Assistant Commissioner of Investigative Engineering Services who oversees the Façades Unit. The subject line of the email stated, "305 west end Ave south elevation 12th floor stone work." The email included the following photograph – showing a crack and sagging of the terracotta:

²⁶ N.Y. City Admin. Code § 28-301.1.

²⁷ This a diary is included in Appendix H.

²⁸ See fn. 3.

²⁹ In addition, DOI issued a subpoena to the Esplanade regarding documentation relating to work done on the Esplanade's facade and the building provided thousands of pages in response. In those materials, DOI did not locate documentation showing that a notification was made to DOB or repairs were made during that time. Further, DOB has no record of permit requests or of a complaint filed.



The body of the email, which included the Consultant's full name, address, main telephone number, and cellular telephone number, read in pertinent part as follows:

"While I was doing a site inspection on the building to the south I saw this on the 12 or so floor on the south elevation

I also saw other items that I believe your staff should look at feel free to have your inspector give me a call

I would get someone over pretty quick on this

Call me if you have any questions

I tried calling 311 but from Jersey it does not work . . . "

After receiving an automatic out-of-office reply from the DOB Assistant Commissioner's email, the Consultant forwarded his original email to an Administrative Architect in DOB's Façades Unit and carbon-copied the DOB Assistant Commissioner. In the email, the Consultant asked the Administrative Architect to process the request for an inspection.

The following morning, the Administrative Architect emailed the Consultant stating:

"Processing now. thanks"

In response, the Consultant emailed to the Administrative Architect:

"yeah looks scary lets get it before winter sets in the building is nursing home looks a little lower budget."

The DOB Administrative Architect diverted from protocol after she received the above emails, in that she did not fill out an "Inspection Request Form." Instead, the Administrative Architect forwarded the original email she received from the Consultant requesting an inspection. The Administrative Architect forwarded it to the Supervising Inspector and copied the Administrative

Architect's supervisor as well as the Supervising Inspector's supervisor. Within her email, the Administrative Architect asked:

"... can we inspect?"

It appears that the Supervising Inspector did not respond to the email, nor does it appear that he ever opened it because a forensic analysis conducted by DOI revealed it is marked as "unread." In the end, the DOB Supervising Inspector acknowledged that an inspector should have been dispatched to the building, but DOB ultimately took no action in response to being alerted about this potentially dangerous façade condition.³⁰

Seven months later the building remained uninspected, and a piece of terracotta fell, killing two-year old Greta Greene.

II. DOB's Inadequate Enforcement of Administrative Code and Local Law 11 Compliance More Generally

A. DOB's Façades Unit

Once DOI's investigation uncovered numerous failures in ensuring the façade at the Esplanade was safe and in compliance with Local Law 11, DOI examined current practices and protocols in place for enforcing Local Law 11 compliance across the City. This review revealed that DOB failed to ensure compliance resulting in approximately 1,400 buildings failing to file façade inspection reports by the close of the last reporting cycle in February 2015, even though all filings, to be considered timely, were actually due in February of 2013. A subsequent Amnesty Initiative by DOB resulted in the submission of approximately 400 reports, leaving approximately 1,000 unfiled.

All façade inspection reports are filed with DOB's Façades Unit, where the reports are reviewed and maintained. According to the Unit, it receives approximately 27,000 façade report filings per five-year reporting cycle.

While DOB informed DOI that they consider the Façades Unit an "administrative unit," the Unit is unable to run a single report detailing the history of a building's façade and its compliance with Local Law 11. The Unit does not internally monitor individual building compliance with Local Law 11 and DOB's Buildings Information System (BIS)³¹ does not even allow for such regular tracking. For example, there is no central database to review the timeliness of façade inspection report filings or the results of Local Law 11 façade inspections, and what permits are requested by a building for façade work and protective shedding.

³⁰ DOI has referred several DOB employees for discipline based upon this incident.

³¹ BIS is a database available to the public that can be accessed through DOB's website that contains basic information for every property in the City of New York, including, but not limited to, complaints on the property, violation issued, permits, and elevator and boiler inspection history.

B. Buildings That Failed to File Mandatory Façade Inspection Reports

As of July 2015, DOB still had not received approximately 1,003 overdue façade inspection reports. DOB reported that the City itself (primarily NYCHA) was the landlord for 101 of these buildings. When asked the reason why those buildings had not filed and what condition the façades of those buildings were in, DOB was unable to provide answers.

DOI requested that DOB address all buildings that had not filed reports.

DOB prioritized and completed inspections for 541 of the 1,003 buildings. DOB issued violations to over half of the buildings (267) for failing to maintain the façades in a safe condition and determined that 14 of the 267 buildings needed to immediately fix conditions or install protection for the public because of existing hazardous conditions on the façades that could result in falling debris.

Ultimately, DOI has informed DOB that all the remaining uninspected buildings – 462 – should be inspected promptly.³² The Mayor's Office is coordinating façade inspections and report submissions for the remaining City-owned buildings.

C. Buildings That Filed Façade Inspection Reports Citing Unsafe Façade Conditions

In addition to buildings that failed to file a report, DOI learned during its investigation that 2,490 buildings (including – City-owned buildings, again mostly NYCHA) filed reports by the end of the reporting cycle (February 20, 2015) that affirmatively stated that the façade had “unsafe” conditions.

Approximately four months after the cycle ended, approximately 1,006, less than half, of these buildings filed amended reports stating that the unsafe conditions were corrected. This left approximately 1,484 buildings with outstanding reports of unsafe façade conditions. DOI discovered that DOB had inadequate protocol for inspecting these unsafe filings to ensure compliance with Local Law 11.

DOB's Façades Unit prioritized inspections for 153 of the 2,490 buildings that filed façade inspection reports citing unsafe conditions. The majority of the buildings, 113, were issued violations for failure to maintain the façade in a safe condition and/or protect the public. In addition, DOB required that 40 of 113 buildings immediately make repairs or install safety measures as unsafe conditions presented the possibility of debris on the buildings falling off within months.

Most non-prioritized buildings fall into 3 categories: (1) Buildings that had been inspected by DOB's Façades Unit since January 1, 2014; (2) Publicly-owned buildings where the Mayor's

³² DOB did not prioritize these privately-owned buildings because: (1) as of January 1, 2014, they were previously inspected after DOB was notified during the facade inspection of an unsafe condition; (2) as of January 1, 2014, they were issued a sidewalk shed permit; (3) as of January 1, 2013, they were issued a permit for facade repairs; (4) as of July 1, 2010, they demolition of the building was signed-off on; and (4) filings that were received late.

Office was meeting with those public agencies separately and ensuring correction was underway; and (3) Buildings with some – but not sufficient – indicia of remediation.³³ As of the date of this report, all City agencies had either corrected unsafe conditions or installed sidewalk shedding, if necessary, at the 764 City-owned buildings that cited unsafe conditions. DOI has informed DOB that the remaining uninspected non-prioritized buildings must be inspected promptly.

III. Policy and Procedure Recommendations.

To ensure adequate compliance with and enforcement of Local Law 11 in addition to increasing public safety, DOI made the following policy and procedure recommendations to DOB, which have been accepted and are in the process of being implemented:

1. Create a database that tracks the history of each building required to file a façade inspection report under Local Law 11 so reports can be pulled and data analysis conducted;
2. Allow BIS to have the capability to upload façade inspection reports and/or allow QEWDs to upload all of the information contained in the report to BIS so that the information is easily accessible to the public;
3. Implement a system that alerts DOB's Façades Unit when time periods, as set forth in Local Law 11, have passed and not been complied with by individual buildings;
4. Re-inspect buildings where façade violations were issued every three months until the situation has been remedied;
5. Inspect all building façades within 180 days of the filing of reports citing unsafe conditions. If necessary, erect sidewalk shedding immediately;
6. Conduct inspections of all buildings that do not file façade inspection reports within 180 days of the date they are due. Take steps to install a sidewalk shed if necessary;
7. Conduct an additional random audit of 25% of all façade report filings. This would include, but not be limited to, buildings that file initial reports of safe conditions or safe with a repair and maintenance program;
8. Create a written protocol within the Façades Unit for accepting façade complaints, focusing on tracking all incoming complaints, immediately inspecting such conditions, and logging the disposition;
9. Require building owners to file additional certifications along with Local Law 11 filings. The owners should attest to hiring the QEWD and certify that an inspection was conducted, the owner has reviewed that report, and the owner is aware of his or her obligation to maintain the façade in a safe condition pursuant to N.Y. City Admin. Code § 28-301.1; and

³³ DOB excluded buildings that had immediately notified DOB of unsafe facade conditions prior to filing a report as of January 1, 2014 and therefore had been inspected by DOB, buildings that filed reports amending conditions from unsafe and were pending with the Facades Unit who inspects all buildings upon the filing of an amended report, and buildings that filed for sidewalk shed permits as of January 1, 2014.

10. Require that, if a QEWI reports an unsafe condition, he or she should be mandated to detail in their report what conditions are unsafe, why they believe them to be unsafe, how imminent the danger is and what, if any, protection is immediately needed for the public.

IV. Conclusion.

The DOI investigation resulted in the arrest of a Licensed Professional Engineer for falsifying a façade inspection report. Moreover, the investigation uncovered a broader problem. Specifically, DOI's investigation revealed a systemic failure to ensure Local Law 11 compliance throughout the City. DOI uncovered the following:

- DOB did not have appropriate protocols in place to address the number of buildings that failed to file their Local Law 11 reports. As a result, not enough was being done to address and hold accountable the buildings that failed to file the required façade inspection reports and ensure that the public was safe.
- DOB did not have in place the appropriate protocols to ensure buildings that filed their façade reports indicating unsafe conditions were taking the appropriate measure to ensure the safety of the public pending repairs to the façade.

Not only has this investigation resulted in the arrest of a licensed PE, but the recommendations laid out in this report will help ensure future compliance with Local Law 11 and ultimately provide an increased level of safety to pedestrians on City streets.