

January 2015



Code-and-flue season

2,500 pages of new construction guidelines are giving developers headaches

January 02, 2015

By Rich Bockmann



Eran Chen

While the square foot is the measure on many industry minds, real estate is often a game of inches: from plans for the length of a kitchen counter to the builder's clearance for a bathroom door.

Yet as developers consider scaling back the sizes of new apartments in an effort to hit more modest price points, they now have to contend with thousands of pages in the city's new building codes that make the task more challenging.

"It's a very interesting phenomenon. In New York, the average apartment is getting

smaller, but bathrooms are growing in size," said ODA Architecture founder and executive director Eran Chen. "In some rental buildings where the apartments are really small, the bathrooms and closets are as big, or bigger than, the bedroom itself."

Firms like ODA, which designed projects such as TF Cornerstone's 1,193-unit [Hunter's Point South building in Long Island City](#), have been pouring over the voluminous new construction and building codes that went into effect on Dec. 31.

Comprised of 2,500 pages of regulations, on top of 13 new resiliency laws drafted in response to Superstorm Sandy, the new rules set standards for developers and builders to follow on construction methods, materials and everything in between.

Take, for instance, the size of bathrooms, which have grown increasingly larger through a pair of successive code revisions over the past six years. Under the old regulations, the clearance required for a bathroom door to swing open used to be able to overlap with the leeway given around a toilet or a sink. The new rules require a developer to choose between providing a 10-square foot clearance between those spaces or swinging the bathroom door outward, both of which have implications on the sizes of rooms.

This may seem like a minor change. But it comes on top of rules requiring elevators to be larger to fit fully reclined stretchers, guidelines for more spacious stairwells and limits on window placement that force developers to stretch room sizes.

Kitchens are growing too. Under the 2008 codes, mechanical exhaust vents were only required for kitchens that were more than 30 feet from a window. But now there is debate about the new code, which some mechanical engineers have interpreted to require that every kitchen be vented. This would require more and more space for the necessary ductwork as a building climbs taller.

"It makes life more difficult in very tight floor plates to just fit everything when you have so much going vertically," said Chen, who called it one of the more controversial issues he has come across in the new rules.

"I think until the first building is approved, we will not know the right answer," he said.

The revised rules apply to applications for new buildings and certain renovations completed after Dec. 31, and Chen said he will be paying close attention to see how the Department of Buildings interprets the new regulations.

Rules, revisited

The 2014 code is the first revision the city has put out since 2008, when, after years of consideration following 9/11, lawmakers modernized building standards for the first time in 40 years. The idea, experts said, was to align New York City's idiosyncratic and often befuddling rules (themselves mashups of various laws such as the Americans with Disabilities and Fair Housing acts) with those of the widely recognized International Code Council.

The city used the ICC codes, which are revised every three years, as its base for recommendations. Yet the process is so time consuming, the city's codes lag one cycle behind the international council's: both the 2008 and 2014 codes were built on the ICC's from three years prior.



Kartik Desai

More than half a dozen committees worked to put the city's new guidelines together, and the real estate industry made its presence felt on the managing committee, which included representatives from the Real Estate Board of New York, Rudin Management and members of various other industry organizations.

And while there seems to be consensus that four decades is a long time to go between overhauling the codes, successive changes can start to become burdensome when they're not considered in the context of previous revisions.

"My impression is that with the 2008 code, everything got a little bigger, and now everything is getting bigger again," said Kartik Desai, a partner at Tamarkin & Co. and the firm's director of development. "The cores are getting bigger; the stairs getting bigger. We're just getting really squeezed with our ability to make efficient floor plans."

The bigger rooms can be more easily accommodated in large luxury apartments. But as speculation increases about a potential glut of product at the top end of the market, developers are beginning to turn toward smaller condos in an effort to appeal to mid-market buyers.

Desai said that in areas with lower price points, such as the Lower East Side, the new building codes, combined with restrictive zoning, can make it difficult to find development sites that pencil out attractively.

"It's becoming increasingly difficult to fit everything in. We end up being deterred, and if it's deterring us it's deterring others as well," Desai said, adding that while he thinks the rules do indeed make for a better quality of life in the city's housing stock, lawmakers would be better off applying them in a more holistic manner. And that may be just what's in store next time around.

When the ICC kicked off its newest code-revision cycle in November, it included a new provision requiring all proposed changes to be accompanied with a calculation the change would have on construction costs.

"If the cost-impact statement or substantiation is not provided, the proposal is considered incomplete and will not be processed," the organization said in a statement.