

FAQs From Tenants Dealing With Construction Nightmares



The following topics and questions deal with construction issues in residential buildings – mainly, common issues tenants may encounter, and how tenants can take action to ensure their right to a safe, livable space. Above all, it’s important to understand your rights and act quickly on any issues you face!

I. WHEN & HOW TO ACCESS “311”

- ***When is it appropriate to call 311?***
 - If you feel your landlord has not provided you with safe, secure living conditions – whether through construction issues or already-existing problems – you should call 311 and report your issue(s) immediately. NYC’s 311 service operates 24 hours a day, seven days a week. It’s important to remember that, while not all 311 calls are effective in having NYC’s Department of Buildings (DOB) declare violations – i.e., DOB-verified complaints that the landlord must then resolve – it helps to have the complaint on file in case future issues arise in your building and you decide to pursue legal action.
- ***Can registering a complaint with 311 only be done over the phone?***
 - No – you can also file a complaint online, at 311’s website (<http://www1.nyc.gov/311>). Once you access the main page, click on the “Make a Complaint” tab and follow the prompts to file your complaint. One advantage to filing your complaint online is that you can provide visual evidence (up to three photographs) of the alleged violation (for assistance in navigating the DOB’s website and locating info on your building, please refer to our “DOB Tutorial” fact sheet). In addition to filing online, there’s also a 311 app – downloadable from 311’s website – that allows you to file complaints from your smartphone.
- ***How do I ensure that my complaints are adequately heard & understood by the DOB?***
 - It’s important to be concise in your descriptions of violations. Focus on specific issues and their locations – for example: “there’s a leak in my roof; I’m in Unit #2.” Also, using specific phrases such as “construction without a permit,” “demolition in areas not permitted,” “blocking stairway,” etc. will resonate more with 311 operators, allowing them to process your complaint more effectively (if you’d like more information on terminology most commonly used by the DOB, consult our “DOB Glossary” fact sheet). Once you’ve made the complaint(s), be sure to retain your 311 complaint number. You should also keep a log (with photos, if possible) of

any issues that come up during the construction process, and talk to your neighbors about these issues – the more complaints filed in a building, the faster the DOB will act in resolving them.

- ***Do 311 operators pay more attention to repeat complaints?***
 - In many cases, yes; having multiple tenants in a building file complaints over the same issue – can be advantageous. However, it is often dependent on the type and severity of the issue. Take, for instance, a broad issue such as illegal construction. One complaint may get the issue on record with the DOB, but several complaints by a group of tenants will suggest the issue is of a greater scale and/or urgency. More severe issues – for example, dangling electrical wires in hallways – should also be reported by as many tenants [within a building] as possible. When it comes to 311 and the DOB, a dozen complaints on an issue will resonate much more than just two or three. During these 311 calls, tenants should use clear, vivid terms like “dangerous” and “emergency” to draw immediate attention to the issue. Furthermore, never be afraid to call 911 in cases where you feel your health, safety, and/or welfare are at risk. If, for instance, your building’s main entrance (or your own unit’s entrance) is blocked by construction, don’t call 311 – immediately call 911, instead.

- ***I’ve called 311 to make a complaint, but the operator refused to register it. Can they do this? How would I proceed?***
 - 311 operators are obligated to take down [and register] all complaints within 311’s database. If an operator refuses to register your complaint – or, tells you that a repeat complaint on an issue is not necessary – insist that your complaint be placed on record anyway for future reference. After this, be sure to obtain a tracking number for your complaint. If the operator continues to be dismissive, ask for his/her name, as well as any contact information for his/her supervisor in the event you choose to report their behavior. In urgent cases where you feel 311 is not being responsive enough to your issues, you can contact your local community board or councilmember and place a complaint with them; describe your issues to these elected officials and note the lack of response from 311 (if you choose to do this, make sure you have your 311 complaint’s tracking number).

II. HOURS OF CONSTRUCTION

- ***Between what hours is construction allowed in my building?***
 - What DOB requires of landlords & contractors: The standard hours of construction work are from 7 AM to 6 PM on weekdays. If necessary, a landlord can obtain an **after-hours variance**, which allows for construction to occur outside of those usual hours as well as on Saturday – or, on rare occasions, Sunday – from 9 AM to 5 PM.
 - What to do if they’re not abiding by these rules: First, check to see what construction permits are posted in your building; by law, these must be posted in

the common areas (lobby, vestibule, etc.) of every building. If there isn't an after-hours variance, and you know that construction work is taking place beyond the allowed hours, contact 311 immediately to file a complaint. In addition to contacting 311, inform your neighbors and encourage them to file complaints with 311. Also, document any extra hours [or extra work] done by construction crews – it's helpful to have it on record.

- ***Does this mean construction could potentially be going on at any hour (through either permitted work or variances)?***
 - What DOB requires of landlords & contractors: Without an after-hours variance, the landlord can only do what is called “housekeeping” work – i.e., painting, small repairs, and other minor projects within individual apartment units.
 - What to do if they're not abiding by these rules: A good tip is to cross-reference the permits posted in your building with the active permits on DOB's website (again, you can check our “DOB Tutorial” fact sheet to see how this is done). If the permits don't match, you should immediately file a complaint with 311. Also, it can sometimes be difficult to distinguish between “housekeeping” and construction requiring a permit. Here's a good rule of thumb: if the work is big enough to loudly catch your attention – or, if it's work you couldn't do yourself by obtaining supplies from a hardware supply store (ex: Home Depot) – it's not housekeeping.

III. CONSTRUCTION PERMITS

- ***How can I make sure that my landlord is only doing whatever construction he/she is legally allowed to do?***
 - What DOB requires of landlords and contractors: All legal construction work done by your landlord must first be approved by the DOB; when this happens, a permit is issued that details the scope of the project and where [in the building] it'll take place. These permits should be clearly visible in the vestibule [or lobby] of your building for all tenants to see.
 - What to do if they're not abiding by these rules: The best way to hold your landlord accountable for any construction is to check for permits on any construction you see. One way to do this is, as mentioned above, to check the lobby/vestibule of your building where permits are required to be posted. Another way is to go to the DOB's website (<http://www.nyc.gov/buildings>) and search any open permits for your building. In many cases, this could be more advantageous, as the DOB often posts permits online within hours of granting them. Regardless, if you can't find any permits – in person or online – and/or the work listed on permits doesn't match the work construction crews are doing, contact 311 (to learn more about how to find information about your building on DOB, consult our “DOB Tutorial fact sheet”).

IV. ALTERING MAJOR SERVICES (WATER, GAS, etc.)

- ***My landlord began construction in my building today and turned off a major service (such as water, heating, electricity, or cooking gas) without telling anyone. Can he/she do this?***
 - **What DOB requires of landlords and contractors:** Landlords are not allowed to alter major services without first giving tenants sufficient notice – usually, a day or two before construction work takes place.
 - **What to do if they're not abiding by these rules:** File a complaint with 311, and try to get other tenants in your building to do the same – chances are, they'll also be affected by something as large as, say, the heat being turned off. Keeping a log of your complaints is also helpful, as repeated occurrences of these issues could allow you to pursue legal action against your landlord for harassment (see our fact sheet "*When is Construction Harassment?*" to learn more about landlords using construction as a vehicle for harassment).

V. CLEANLINESS OF BUILDING DURING CONSTRUCTION

- ***Dust has been a major issue in my building during construction – it's all over the place and workers haven't made any effort to contain it. What can I do?***
 - **What DEP requires of landlords and contractors:** Dust issues come under the jurisdiction of the Department of Environmental Protection (DEP). It is a requirement that individual apartments be adequately protected from outside dust by plastic doorway coverings. Dust-heavy areas in the building should be tarped off, so as to protect tenants' well-being during the construction process. Any cracks or openings in the building where dust can seep into should also be adequately sealed. All these measures are the responsibility of the landlord and contractor.
 - **What to do if they're not abiding by these rules:** Contact 311 immediately – the presence of excess dust in the building is a health risk, especially for elderly tenants and tenants who might suffer from respiratory issues. It helps to have photographic evidence, as well – taking pictures of the dust build-up can add more weight to your complaint. As with other construction issues, keep your fellow neighbors in the fold. Multiple complaints have a better chance of catching the DOB's eye!
- ***There is excessive debris throughout the building, even during hours construction isn't going on. Are workers allowed to leave things around like this?***
 - **What DOB requires of landlords and contractors:** Common areas of building must be clear of debris, and tenants' apartments should also be protected from outside construction. There shouldn't be any bigger debris – such as large utility pipes, tubing, electrical wiring, drywall, lumber, concrete, etc. – lying around; it is the responsibility of the construction crew to clear all their work spaces before their work is completed for the day.
 - **What to do if they're not abiding by these rules:** You should contact 311 to file a complaint. In situations like these, it could be more effective to file your complaint through 311's website, as you'll have the opportunity to attach photographs of any

potential violations you notice in the building. As always, note the time and date of any potential infractions, especially if they've occurred before or after variance hours.

VI. OTHER COMMON ISSUES IN BUILDINGS UNDERGOING CONSTRUCTION

- ***During construction, workers in our building have a habit of leaving the front entry door open. Are they permitted to do this?***
 - What DOB requires of landlords & contractors: During construction, crews are allowed to leave the entry door open for a reasonable period of time, as long as it relates to the work they're doing – ex: bringing materials/tools in and out of the building. Workers are not allowed to leave building entrances open for extended periods of time, or in situations where tenants' safety would be put at certain risk.
 - What to do if they're not abiding by these rules: In worst-case scenarios, leaving building entries open for extended periods of time is a threat to tenants' right to a safe, secure space – which in itself can be construed as a violation of the **warranty of habitability** a landlord must provide his/her tenants. Contact 311 as soon as possible to report a complaint. Furthermore, if you see any suspicious persons wandering inside the building, don't hesitate to call 911.

- ***What if my personal belongings are damaged during the construction process – does the landlord have to compensate me?***
 - What DOB requires of landlords & contractors: The landlord is **not responsible** for items in your apartment that have been damaged during the construction process.
 - What to do if they're not abiding by these rules: Be proactive – look into obtaining renters insurance beforehand, so that you're protected in the event of a construction accident that damages your personal property in any way.



Prepared by the Cooper Square Committee
November 2013
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