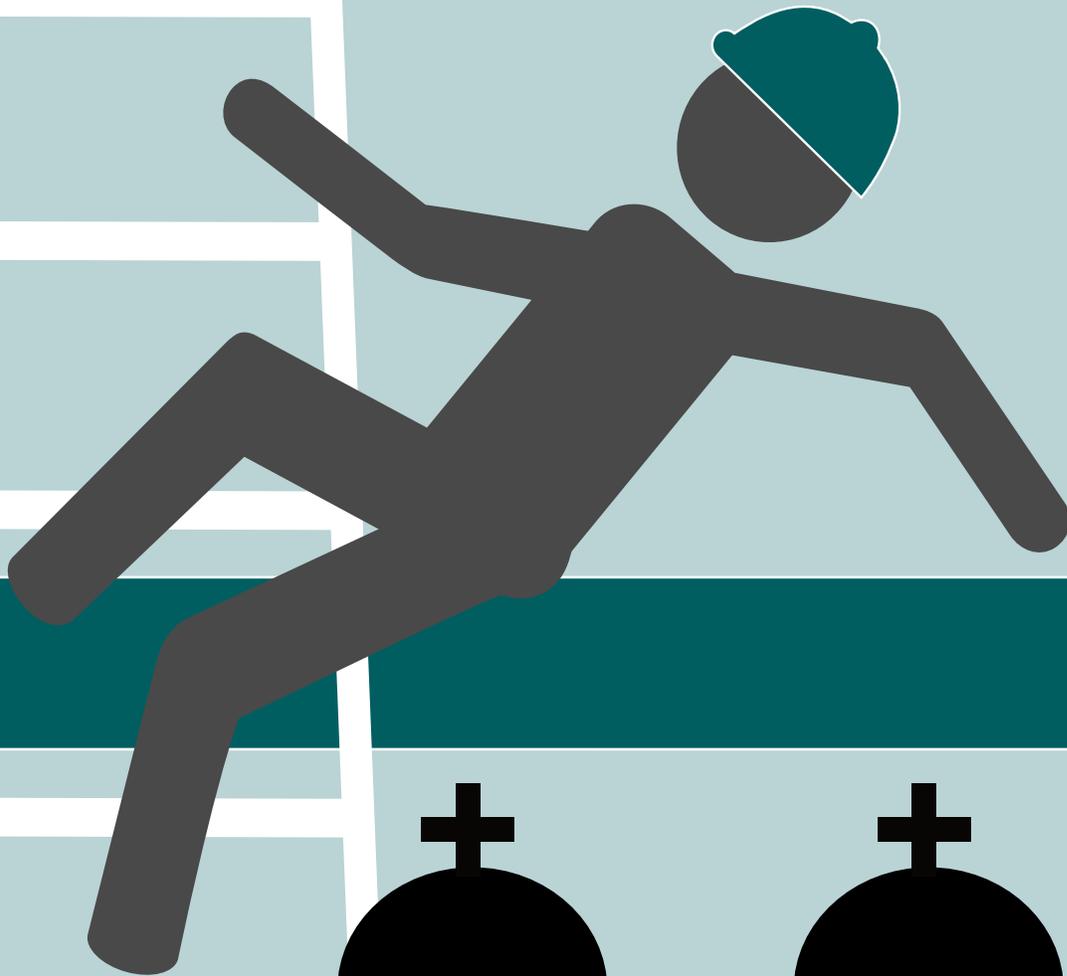


# The Price of Life

2015 Report on Construction Fatalities in NYC



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# IN MEMORIAM

Following are names, ages, dates and locations of the fatal accidents of workers died performing construction work in New York in 2013 and 2014 that could be identified.

This list was obtained from the U.S. Occupational Safety and Health Administration, United Support and Memorial for Workplace Families, and original research by the New York Committee for Occupational Safety and Health.

## 2014

**Delfino Jesus Valazquez Mendizabal, 43**

Staten Island, November 28

**Julian Castellanos, 47**

Huntington Station, November 10th

**Alex Shell, 51**

Verrazano-Narrows Bridge, October 29th

**Rodolfo Vasquez-Galian, 27**

Manhattan, September 23

**Lech Chrostowski, 57**

Farmingdale, September 20

**Christopher Getman, 28**

Watertown, August 18

**Nick Cavataio, 62**

Bronx, August 5

**Michael R. Hauf, 54**

Malta, June 26

**Thomas Pastane, 26**

Queens, June 5

**Grover Lehman, 60**

Newfield, May 15

**Frank Mack, 39**

Rensselaer, April 14

**Lukasz P. Stolarski, 55**

Manhattan, April 14

**Harmit Singh, 58**

Manhattan, April 2

**Manuel Colorado, 33**

Brooklyn, March 6

**Jorge Juca, 29**

Bronx, January 10

## 2013

**Ahmad Luqman**, 46  
Elmont, December 28

**Scott Winkler**, 50  
Maybrook, December 10

**Timothy Lang**, 53  
Maybrook, December 2

**Kyle M. Browne**, 23  
Pulaski, November 18

**Jaime Sillart**, 56  
Manhattan, November 15

**Igor Kalocay**, 45  
Hudson, October 29

**Claudinei Martins**, 34  
North Salem, August 17

**Christopher Premo**, 34  
Wyantskill, July 29

**Abbas Behnambakhish**, 55  
Manhattan, July 5

**William Schaefer**, 52  
Corning, June 17

**John Halstead, Jr.**, 44  
Oswego, June 11

**Juan De La Cruz**, 30  
Brooklyn, May 21

**Margarito Hernandez-Moreno**, 36  
Brooklyn, May 3

**Gary T. Feeney**, 24  
Ballston Spa, April 13

**Ebrima Jallow**, 48  
Manhattan, March 20

**Ricardo Gonzalez**, 45  
Queens, January 24

**Zhanbin Li**, 56  
Port Jefferson, January 22

**Ying Cao**, 39  
Port Jefferson, January 22

**Paul Schisler**, 54  
Bronx, January 15

# INTRODUCTION

All workers' lives have value, and all workers should be able to leave their loved ones knowing that they will return home safely at the end of the day. However, New York's construction workers, particularly immigrant and non-union workers, are more likely than workers in any other economic sector to die on the job.

In this update of NYCOSH's 2014 report, "It's No Accident", we continue to document on-the-job deaths that could have been prevented had employers not put workers at risk by taking safety shortcuts. We analyzed the OSHA citations issued to employers during fatality cases to highlight the need to increase penalties on employers that violate health and safety regulations.

New York had the nation's sixth lowest construction worker injury rate from 2000 to 2012,<sup>1</sup> but construction still remains a very hazardous occupation. While the construction industry's overall fatality rate dropped from 11.5 deaths per 100,000 workers in 2004 to 8.6 in 2013;<sup>2</sup> in New York, construction work accounts for less than four percent of employment, yet the sector represents nearly 20 percent of occupational fatalities in the state.

This report focuses on construction work at elevated heights because it is especially hazardous, and contractors are more likely to violate health and safety standards in this category. Additionally, as construction and insurance interests have stepped up their efforts to weaken New York's Scaffold Safety Law (Section 240 of the Labor Law), this report shows the necessity of "special protections" for workers who perform some of the most dangerous jobs in the country: construction workers working at elevated

heights. Sixty-five percent of construction workers work on a scaffold, where they are at risk of falling. Other construction workers face fall hazards such as open stairways and elevator shafts. In recent years, falls from working at elevated heights accounted for nearly half of construction fatalities in New York.

All workers—from construction workers to nurses, teachers to farmworkers, office managers to retail workers—deserve a safe and healthy workplace. The Occupational Safety and Health Administration was established to ensure safer and healthier workplaces, but its penalties are often so low that employers view them as just a small cost of doing business. Additional protections, like the Scaffold Safety Law in New York, are necessary to protect construction workers from the daily threat of injury and death on the job.

Construction work accounts for **LESS THAN FOUR PERCENT OF EMPLOYMENT,**



but the sector represents nearly **20 PERCENT OF OCCUPATIONAL FATALITIES** in New York State.



**NYCOSH**

# SUMMARY OF FINDINGS

**1) Construction work at an elevation is especially hazardous.** Roofing and siding workers take extreme risks to do their everyday jobs. In 2011 and 2012, falls to a lower level comprised 49 percent of construction fatalities in New York.<sup>3</sup> Additionally, 71 percent of construction accidents with injuries reported to the New York City Buildings Department between 2008 and 2013 were height-related — workers who work at an elevation are at an increased risk. Eighty percent of roofing and siding contractor inspections between 2010 and 2012 resulted in violations, compared to two-thirds in all construction inspections. Contractors who violate health and safety regulations are often at fault when an employee is injured or killed.

**2) Nonunion employers are the least safe.** In 2012, 79 percent of fatal fall construction accidents investigated by OSHA in New York occurred at nonunion construction sites. Ninety percent of construction companies in OSHA's Severe Violator Enforcement Program (SVEP) in New York are nonunion. According to OSHA, the SVEP focuses "on recalcitrant employers that endanger workers by committing willful, repeat or failure-to-abate violations."

**3) NYC Department of Housing Preservation and Development continues to do business with contractors that have extraordinary high violation rates.** Eighty-nine percent of contractors that are currently working on affordable housing projects and are flagged for "enhanced review" by the New York City Department of Housing Preservation and Development, had OSHA violations.

**4) Construction employers in New York routinely violate OSHA safety standards.** Two-thirds of OSHA construction inspections in New York between 2010 and 2012 resulted in citations for "serious" safety violations. Most of the violations were of safety requirements for scaffolds, ladders, and fall protection equipment. OSHA defines a "serious" violation as one which could "cause an accident or illness that would most likely result in death or serious physical harm."

**5) When a worker dies in a construction site fall, OSHA almost always finds there were safety violations.** In 2012, serious violations were cited in 89 percent of the fatal height-related construction accidents OSHA investigated in New York. Violations of safety standards specifically intended to prevent height-related injuries were cited in 68 percent of these fatalities.

**6) Immigrant and Latino workers are disproportionately at risk of dying in construction.** Latinos made up 25 percent of NYS construction workers, but represented 38 percent of construction fatalities in 2012.<sup>4</sup> Additionally, in 60 percent of OSHA fall from elevation fatalities, the worker was immigrant and/or Latino.<sup>5</sup> Risks are associated with nonunion employers, lack of training and language challenges.

**7) Construction worker fatalities result in puny penalties for unsafe contractors.** Nationally, OSHA inspects fewer than four percent of construction sites. In New York, there are only 71 inspectors to monitor all worksites in all industries, so most construction sites are not inspected. When OSHA does inspect and cites violations, the penalties they assess are so low, they are a mere slap on the wrist, even if a worker died. The average penalty in fatal height-related construction accidents in New York in 2012 was only \$7,620.

## SUMMARY OF RECOMMENDATIONS

Every person has the right to a safe and healthy workplace. Too many New Yorkers are exposed to injury, fears for their health and life, or witnesses a co-worker harmed by an unsafe, hazardous workplace. And too many New Yorkers have died because the safety systems in place require vast improvements. Workers are legally entitled to a safe workplace, but many workplaces fail to follow even the most basic health and safety regulations, and, as this report shows, this is too often true with New York's construction sites. The following are a summary of recommendations NYCOSH urges to both defend and extend workers' rights to safe and healthy workplaces.

At the national level, OSHA enforcement must become an effective deterrent to endangering workers.

To become an effective deterrent to safety violations that cause injuries and fatalities, the number of OSHA inspectors and inspections must be increased substantially. OSHA must also expand its staff that are qualified to interpret and are fluent in languages most commonly spoken by Limited English Proficiency workers. This would help ensure that those likely to die in construction—immigrant and Latino workers—are able to communicate effectively about health and safety concerns on the job.

*Repeat and willful violators of health and safety laws must be prosecuted under criminal statutes and should pay into a special fund to increase inspections.*

Given the limited number of OSHA inspectors and low fines for violators, many employers do not take OSHA violations seriously. Local district attorneys, attorney general's offices, and federal prosecutors must be more proactive in identifying criminal cases against employers who regularly show disregard for the lives of their employees. One egregious example of criminal negligence by Formica Construction Company, detailed later in this report, makes the case for increasing the number of workplace safety cases that are flagged for criminal investigation. Additionally, fines paid by repeat and willful violators should go towards increasing the number of inspectors and inspections, so that some of the most egregious violators will help pay towards making New Yorkers safer.

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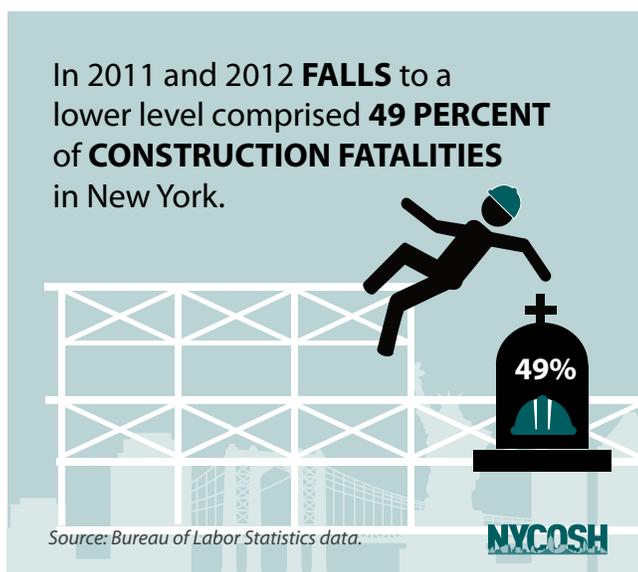
*New York's Scaffold Safety Law must be protected.*

Construction work in New York is made safer by this law, which holds employers accountable when they cut corners on the safety of people working at heights and put workers lives at risk. Jaime Sillart was one of many construction workers working on a scaffold when he fell to his death and was the victim of a preventable incident that indeed was no accident. Not only did the hoist area where Mr. Sillart fell not have guardrails, but Mr. Sillart also did not have proper training certification to work on a support scaffold. The Department of Buildings issued citations including lack of training certification, loose planks, broken hoist equipment, no guardrail system, and no fall protection.<sup>6</sup> The Scaffold Safety Law protects workers like Mr. Sillart from unscrupulous employers.

# CONSTRUCTION REMAINS A VERY HAZARDOUS OCCUPATION IN NEW YORK.

## WORKING AT ELEVATED HEIGHTS POSES THE GREATEST RISK.

Construction work at elevated heights is by far the greatest construction safety challenge. According to the U.S. Bureau of Labor Statistics, deaths from falls to a lower level comprised 49 percent of the construction fatalities in the New York State in 2011 and 2012. Forty-two percent of falls to a lower level were from heights of at least 30 feet, compared to 19 percent nationwide, an indication that construction work is more likely to be at greater heights and more hazardous in New York.



## FALL PREVENTION VIOLATIONS ARE OFTEN ACCOMPANIED BY OTHER CONSTRUCTION SAFETY VIOLATIONS.

### OSHA VIOLATIONS GLOSSARY

**Repeat violation** - A repeat violation is reported if the same standard had been cited in the previous five years.

**Willful violation** - According to OSHA, a willful violation is one where the employer knew a hazardous condition exists, knows that it is a violation, and made no reasonable effort to correct it.

**Serious violation** - Defined by OSHA as one which could "cause an accident or illness that would most likely result in death or serious physical harm."

**Gravity classifications** - The gravity classifications are: Gravity 10 (high severity, greater probability), Gravity 5 (medium severity, greater probability), Gravity 4 (low severity, greater probability), Gravity 3 (high severity, less probability), Gravity 2 (medium severity less probability) and Gravity 1 (low severity, less probability).

## 2/3 OF OSHA CONSTRUCTION INSPECTIONS RESULT IN VIOLATIONS

**There were safety violations in nearly two-thirds of OSHA construction inspections in New York State. Violation rates rose even higher for work at elevated heights.**



**66 PERCENT OF OSHA CONSTRUCTION INSPECTIONS** in New York between 2010 and 2012 resulted in citations for **“SERIOUS” SAFETY VIOLATIONS.**



NYCOSH

The New York Committee for Occupational Safety and Health (NYCOSH) reviewed all OSHA construction inspections in New York from 2010 to 2012 and presented their findings in a report issued in 2014.<sup>7</sup> In 66 percent of the inspections at least one construction safety violation was cited. Nearly all of these were classified as “serious” violations, which OSHA defines as one which could “cause an accident or illness that would most likely result in death or serious physical harm.”

The following table shows the results of further analysis of the NYCOSH data. The percentage of inspections resulting in a violation citation was high throughout the state, from 57 percent in the 18 counties covered by the OSHA Albany area office to 85 percent on Staten Island. Roofing-siding-sheet metal work is arguably the construction industry subsector in which workers are most exposed to injury from falls. Eighty percent of the inspections in roofing-siding-sheet metal work between 2010 and 2012 cited safety standard violations. Most violations were of OSHA fall prevention standards. Training requirement violations also were common.

### Percent of construction inspections with violations in New York 2010-2012

OSHA area office	All construction	Roofing, siding, sheet metal work
Albany	57%	72%
Avenel (Staten Island portion)	85%	*
Bayside (Queens)	71%	79%
Buffalo	63%	78%
Long Island	75%	84%
Manhattan (includes Brooklyn)	69%	74%
Syracuse	65%	81%
Tarrytown (includes Bronx)	65%	85%
TOTAL	66%	80%

\*Percentages are shown in this table only if there were at least 50 inspections.

Fifty-one percent of construction violations from 2010 to 2012 were of safety standards intended to prevent worker falls, including those for scaffolds, ladders, stairways and fall protection.<sup>8</sup> Examples of these standards are a requirement that workers on suspended scaffolds be protected by both a personal fall arrest system and guardrail system, and a requirement for ladders to be able to support four times the maximum intended load.

OSHA requires construction workers receive safety training, specifies the topics that must be covered, and requires the trainer to be qualified in the subject matter. Our review found that nine percent of OSHA construction violations between 2010 and 2012 were for failure to provide training. On Long Island, 26 percent of inspections found at least one training requirement violation, in Queens it was 14 percent, in Manhattan and Brooklyn 13 percent. Upstate, these percentages were slightly lower – 11 percent of inspections in the Albany area cited training violations, for instance – but still significant.

IN 85 PERCENT OF CONSTRUCTION INSPECTIONS ON STATEN ISLAND FROM 2010-2012, CONTRACTORS HAD OSHA VIOLATIONS.

## “SEVERE VIOLATORS” ARE NEARLY ALL NONUNION.

OSHA explains that the agency’s Severe Violator Enforcement Program (SVEP) “focuses on recalcitrant employers that endanger workers by committing willful, repeat or failure-to-abate violations.”<sup>9</sup> Twenty-eight of 31 New York construction companies listed on the October 2014 quarterly SVEP list were nonunion. (To be sure, if OSHA could inspect more than a fraction of active construction sites there would be many more than 31).

Twenty-three of the 28 nonunion SVEP construction employers were listed because they met the program’s criteria of at least two willful or repeated violations in one inspection. Four others were listed because OSHA’s fatality investigators cited at least one willful or repeated violation. One nonunion employer on the SVEP list had an extraordinary 41 violations.<sup>10</sup>

A 2013 OSHA news release described how some nonunion construction companies endanger their workers. It described the violations issued against four nonunion construction firms that were working on a 23-story hotel in Manhattan. One of these, Flintlock Construction Services, was in the SVEP as of the January 2015 quarterly update.<sup>11</sup> According to the release:

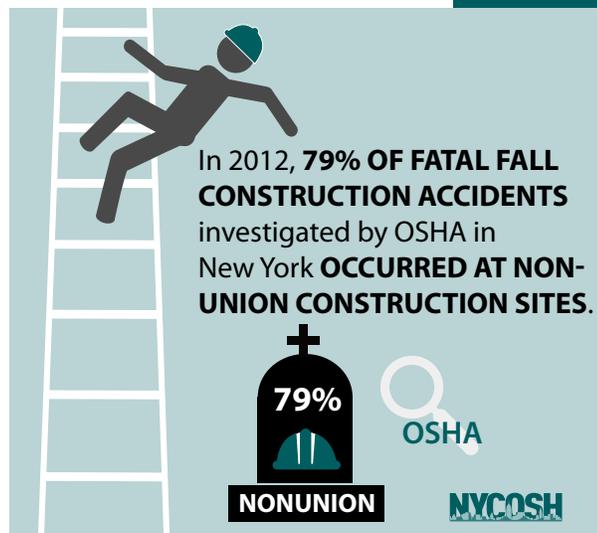
Flintlock failed to provide and ensure the use of fall protection, such as guardrails or personal fall-arrest systems, for workers on the scaffold; the scaffold lacked a safe means of access, causing workers to climb its cross-bracing to reach their work platforms; the work platforms were not fully planked; and the scaffold was not tied off to restrain it from tipping.

Flintlock is currently contesting the violations. In 2012, *Crain’s New York Business* reported that Flintlock Construction Services “is making deep inroads into the Manhattan market, which has long been dominated by union firms.” The president of the Building Trades Employers’ Association was quoted, “To us, Flintlock’s ability to win work is a poster child for how much more we need to accomplish in reducing costs to be competitive.”<sup>12</sup> But nonunion contractors cut costs by cutting corners on workplace safety for nonunion workers, primarily workers of color and Latino immigrants, including undocumented workers.

## NONUNION EMPLOYERS OPERATE THE LEAST SAFE WORKPLACES.

- Nonunion employers accounted for 79 percent of the New York construction accidents in which a worker fell and died from 2004 to 2010, according to the NYCOSH study. Our update for 2012 found similar results —79 percent of fatal fall accidents investigated by OSHA occurred at nonunion construction sites.
- Ninety percent of New York construction companies in OSHA’s Severe Violator Enforcement Program (SVEP) are nonunion. According to OSHA, “SVEP focuses on recalcitrant employers that endanger workers by committing willful, repeat or failure-to-abate violations.”
- Eighty-nine percent of contractors on the New York City Department of Housing Preservation and Development “Enhanced Review” list that OSHA inspected during the last five years had at least one serious OSHA violation. Most had multiple serious violations and one contractor had been cited for an extraordinary 14 violations in a single inspection. All of these were nonunion employers.

NINE PERCENT  
OF OSHA  
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VIOLATIONS  
BETWEEN 2010  
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FOR FAILURE TO  
PROVIDE TRAINING



## NYC DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT AND UNSAFE CONTRACTORS

The New York City Department of Housing Preservation and Development maintains a list of “Enhanced Review” contractors, which is simply their list of contractors currently working on affordable housing projects that have prevailing wage, health and safety, or labor law violations. Our review found that 62 percent of the “Enhanced Review” contractors had been inspected by OSHA since 2009 based on a November 2014 list. Eighty-nine percent had OSHA violations, compared with 66 percent of all construction inspections in New York that cited violations. One of these 16 contractors was cited for an extraordinary 14 violations during a 2012 inspection, including two willful and a repeat violation. In 2013, the *Daily News* reported that this contractor had been paying workers “as little as \$8 an hour even though it was required to pay more than \$53 an hour” and was being made to pay back \$600,000 in wages.<sup>13</sup>

Since 2012, the *New York Daily News* has reported that twelve of the 29 contractors on the list underpaid their workers; they were charged by the federal government and/or failed to pay prevailing wages. Some owed their workers hundreds of thousands of dollars. Ten of the twelve contractors had been inspected by OSHA and all but one had worker safety violations. Appendix B shows the results for all 29 listed contractors. In addition to the twelve contractors the *Daily News* cited for underpayment, the *Daily News* also reported on one contractor (MC & O Contracting) on the list for worker safety lapses. According to the *Daily News*, this contractor had an extraordinary 14 violations since 2004 and was assessed OSHA penalties totaling \$266,000, an astronomical amount by OSHA standards. The *Daily News* also reported that the chief of another contractor, Great American Construction, was indicted for bribery. Great American was inspected three times since 2009 and serious violations were found each time.

*OSHA issues news releases when inspectors cite an especially large number of violations or repeat or willful violations.*

*These excerpts from recent OSHA news releases illustrate how fall prevention violations may be accompanied by other serious violations. An employer that cuts corners on fall prevention may take other safety shortcuts.<sup>14</sup> All three of these employers are nonunion.*

- *Brooklyn, July 2014. “[A]n OSHA inspector discovered... employees working on the second- and third-floor levels without fall protection” and “other fall hazards including missing guardrails for planking used by the employees to access different sections of the second- and third-floor levels.” Employees also “faced dangers of lacerations and broken bones from being struck by falling construction materials and debris and electric burns and shock from handling ungrounded power tools.”*
- *Buffalo, April 2013. An employer was issued citations for ten serious violations “for exposing workers to lead and fall hazards.” Inspectors found “workers exposed to falls of 15 feet from the unguarded edge of the roof, from which they were throwing materials into a dumpster. They were also exposed to unguarded floor holes on the roof. An additional hazard stemmed from a scaffold whose casters were not locked to prevent movement.” Workers also “were exposed to lead while tearing down and disposing of walls that contained lead paint,” and their employer “did not conduct monitoring and sampling to determine the lead exposure levels and did not provide workers with training, respiratory protection, protective clothing, medical surveillance and information about lead hazards.”*
- *Fairport, January 2013. “OSHA inspectors observed... employees exposed to falls of 15 to 30 feet while working at the unprotected edges of the building’s roof.” In addition, the employer was issued serious citations... for not providing medical evaluations and training for employees required to wear respirators, allowing an untrained employee to operate a forklift,*

*not providing employees with information and training on hazardous chemicals, and for the safety monitor's failure to warn employees of fall hazards." OSHA cited one willful and one repeat violation as well as five serious violations.*

## CONSEQUENCES OF UNSAFE JOB SITE FOR WORKERS

*At least one serious OSHA violation was cited in 80 percent of fatal falls.*

In 2013, New York Committee for Occupational Safety and Health (NYCOSH) released the results of its review of all OSHA investigations of construction accidents in which a worker fell and died in New York State between 2004 and 2010.<sup>15</sup> NYCOSH found that at least one "serious" fall prevention violation was cited in 80 percent of the fatalities, at least two such violations were cited in 60 percent of the fatalities, and at least three violations were cited in at least 34 percent of the fatalities. All of these were classified as Gravity 10 violations, the agency's most severe gravity score,<sup>16</sup> which meant that they had "high severity" and a "greater probability" of occurring. NYCOSH focused on worker deaths from falls because they were the single most common construction worker fatality event. OSHA accident investigators records show that in 79 percent of the accidents, the employer was nonunion.

The violations encompassed a wide array of fall protection deficiencies, according to the NYCOSH report:

*"Among these were missing and broken guardrails, failing anchor bolts, cracked planks, platforms with no fall protection, a scaffold that collapsed in the wind, scaffold control buttons that got stuck, a scaffold that broke in two, scaffolds found to be improperly anchored, an unprotected skylight, a ladder with a broken foot and latch, open elevator shafts not protected with a barrier, a floor that collapsed and planking that gave way with no fall protection provided."*<sup>17</sup>

NYCOSH updated this review by looking at the 19 fatal height-related construction accidents in New York that OSHA investigated in 2012. At least one "serious" violation was cited in 89 percent of these fatalities. OSHA standards intended to prevent height-related injuries were cited in 68 percent. OSHA accident investigators cited training violations in 37 percent. And 79 percent of fatal height-related accidents in 2012 occurred at nonunion sites.

### **"THIS NEEDLESS FALL AND RESULTING DEATH WERE ENTIRELY PREVENTABLE."**

OSHA Syracuse area director in OSHA news release, May 2014

*OSHA cited a willful violation in the 2013 death of 23 year-old construction worker Kyle Brown in Pulaski, Oswego County. His employer was nonunion. According to the OSHA news release on the tragedy:*

*Brown "was part of a crew installing metal decking atop the roof of an automobile dealership under construction. As Brown attempted to secure sheets of decking, he was blown off the roof by a wind gust and fell 24 feet to his death. OSHA's investigation found that while Brown was wearing a fall protection harness, it was useless, as the workers were not provided with a means to connect to an independent anchorage point to stop a fall... The company failed to train employees to recognize fall hazards, ensure adequate anchorage for lifelines and secure the decking against displacement by the wind."*

AT LEAST ONE  
SERIOUS OSHA  
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80 PERCENT OF  
FATAL FALLS.

Violations of the New York City construction safety code were cited in most reported accidents.

Construction accidents resulting in a fatality or injury in which an ambulance is summoned must be reported to the New York City Department of Buildings (DOB). Between 2008 and 2013, height-related accidents accounted for 71 percent of reported accidents:



- 441 “worker fell” accidents
- 234 “material fell” accidents
- 47 scaffold/shed/fence/ shoring/installation” accidents.<sup>18</sup>

The New York City’s Building Code requires contractors to observe construction and demolition safety regulations.<sup>19</sup> Review of the accidents DOB investigated between 2011 and 2013 found that inspectors cited at least one violation of safety regulations in 56 percent of “worker fell” and 67 percent of “material fell” accidents in which a worker was injured.

Many of the injuries in these accidents could have been prevented had the employer complied with the City’s safety rules. The causes of accidents in 2012 and 2013, as described by DOB inspectors, illustrate:<sup>20</sup>

- a crane that attempted to lift twice its load and collapsed and injured seven workers;
- numerous instances of failure to provide workers with fall prevention or arrest systems;
- numerous instances of failure to install required guardrails and/or toe boards;
- failure of personal arrest systems;
- open elevator shafts workers fell down;
- workers fell when planks split or broke;
- workers fell when flooring overloaded with cement blocks collapsed and, in one instance, when an overloaded “makeshift platform” collapsed;
- “improperly erected scaffolds”;
- “a worker fell from the balcony... No site protection system was in place;”
- workers fell through holes that were not properly covered, including a hole with “unsecured plywood” and another where “someone had removed the cover from a previously covered hole.”
- “no evidence of a tie off point from where the worker fell”;
- “no guardrails were installed around the shaft”;
- “cross braces missing”;
- a worker “walked across unsecured planks that led from the first escape to the stair tower.”

Appendix A has DOB inspectors’ descriptions of several dozen selected “worker fell” and “material fell” accidents with injuries reported to DOB during 2012 and 2013.

A *New York Daily News* investigation in 2013 reported “a damning portrait of construction in New York City, with contractors who fail to inspect damaged equipment, pay no attention to unsafe worksites, neglect to train or supervise workers and deliberately hide accidents from investigators.”<sup>21</sup> The DOB investigations, together with the earlier OSHA findings, provide ample documentation to support the *Daily News’s* conclusions.

“... A DAMNING PORTRAIT OF CONSTRUCTION IN NEW YORK CITY, WITH CONTRACTORS WHO FAIL TO INSPECT DAMAGED EQUIPMENT, PAY NO ATTENTION TO UNSAFE WORKSITES, NEGLECT TO TRAIN OR SUPERVISE WORKERS AND DELIBERATELY HIDE ACCIDENTS FROM INVESTIGATORS,”  
— *NEW YORK DAILY NEWS*, 2013.

### THREE RECENT NEW YORK CITY DEATHS ILLUSTRATE THE HAZARDS THAT CONSTRUCTION LABORERS FACE WHEN WORKING AT ELEVATED HEIGHTS. DOB ISSUED SAFETY VIOLATIONS IN ALL OF THEM.

April 2014, Dream Hotel, West 55th Street, Manhattan. A worker plummeted seven stories from a scaffold at the site of the Dream Hotel on West 55th Street, Manhattan, which was being renovated. DOB found that planks had been removed from the area from where the worker fell. The Department halted work and issued seven violations. WBCS-TV reported, "Even before the accident, people who saw the worksite wondered if proper precautions were being taken" and one witness was quoted, "We do see the workers often out there without harnesses on, so it's always kind of scary when we're watching out the window."

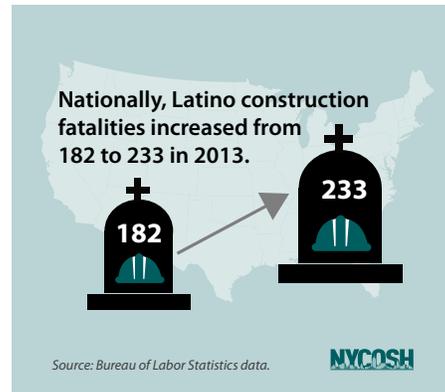
April 2014, 424 West 33rd Street, Manhattan. WABC-TV reported, "The Department of Buildings says there are more than three dozen open violations at a Manhattan construction site where a worker fell 13 stories to his death... Multiple violations were issued including failure to safeguard persons or property; failure to report an accident; no record of daily inspection of suspended scaffold; work doesn't conform to approved plans; failure to provide approved plans; failure to **provide guardrails**; and failure to provide protection." The worker was engaged in façade restoration work on the building.

November 2013, 19 University Place, Manhattan. DNAinfo New York reported: "A construction worker died Friday morning after falling about 70 feet from an unprotected area on a 6-story NYU building, officials said. Jaime Sillart, 56, who fell onto the roof of the adjacent building about 11:30 a.m. The hoist area where the worker fell is supposed to have safety protections like guardrails, according to the Department of Buildings. Sillart, of Bergenfield, NJ, also did not have the proper training certification to work on a support scaffold, the DOB said. The DOB issued several violations for Sillart's lacking proper certification, the lack of a guardrail, no fall protection system, loose planks and hoist equipment in disrepair, according to the agency."

# LATINO AND IMMIGRANT WORKERS DEAL WITH DISPROPORTIONATE DEADLY RISKS IN CONSTRUCTION

Latinos make up 25 percent of NYS construction workers, but represented 38 percent of construction fatalities in New York in 2012.<sup>22</sup> Nationally, Latino construction fatalities increased from 182 in 2010 to 233 in 2013.

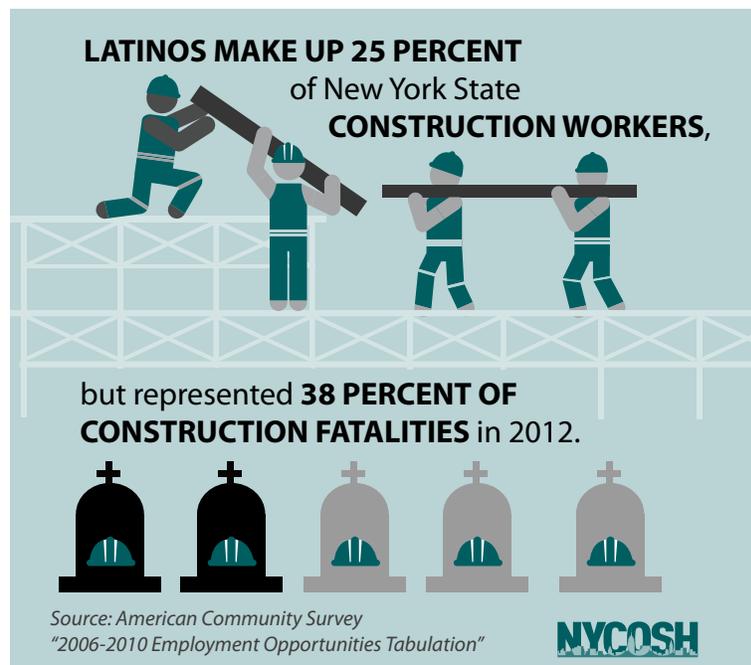
A study of the medical records of 7,000 U.S. Latino construction workers found that they were 30 percent more likely than white non-Latino workers to be injured on the job.<sup>23</sup> Several studies



have shown that lack of training is one reason for the higher injury rates of Latino construction workers.<sup>24</sup> In addition, many New York construction workers are non-citizens, according to the U.S. Census's American Community Survey, including 40 percent of New York's 124,240 construction laborers, 36 percent of the 7,710 drywall installers, 28 percent of the 10,405 roofers and 25 percent of the 88,475 carpenters.<sup>25</sup> They, too, are less likely to receive safety training. People of color and immigrant construction workers are more likely to work off the books, to be misclassified as independent contractors,

to work as day laborers, or to have limited English proficiency that does not often include technical terms<sup>26</sup>, and therefore are less likely to receive safety training.

Eighty percent of immigrant workers in construction are Latino. A Center for Popular Democracy report finding showed that 60% of New York construction fall fatalities OSHA investigated from 2003 to 2011 were Latino and or immigrant.<sup>27</sup> In addition, non-unionized



contractors are less likely to provide safe work conditions, OSHA training and safety equipment. Undocumented workers are less likely to refuse to work in hazardous conditions or speak up for better health and safety conditions for fear they will be fired or deported.<sup>28</sup>

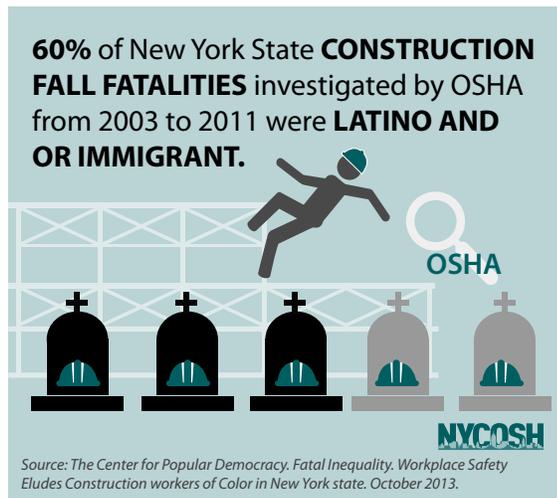
In-depth information on all cases is difficult to come by, as many fatalities are announced prior to names being released, and there are no follow-up media reports. The following fatalities illustrate the disregard for Latino workers' lives—and for worker safety in general—by one contractor, Formica Construction Company:

In November 2014 in Staten Island, Delfino Jesus Velazquez Mendizabal, a 43-year-old husband and father was one of four workers working to demolish a car dealership when the mezzanine, located inside the building at 266 W. Service Road, collapsed and left him trapped and crushed to death under the debris. The nonunion contractor, Formica Construction Company, did not have any valid work permits for the site.<sup>29</sup>

Formica Construction Company has a long history of creating unsafe workplaces, particularly for Latino workers. Ken Formica, one of the owners of the companies, was found guilty of criminally negligent homicide when a worker, Lorenzo Pavia, was buried alive by a trench that Formica admitted he had known was unsafe. Formica served sixteen weekends in jail and paid a \$5,000 fine.<sup>30</sup> His conviction was marked the first time in recordable history that a Staten Island contractor was found criminally liable in a worker fatality case.<sup>31</sup> The criminal prosecution was the result of the Staten Island district attorney, due to OSHA making a recommendation to the US Department of Justice.

A few weeks prior to Velazquez's death, Flag Container Services, which is also owned by the Formica family, had a fatality on one of their job sites. Robert Meehan, a 40 year old sanitation worker, was crushed by a ten-foot dumpster on November 12, 2014.<sup>32</sup> OSHA continues to investigate the incident.

Despite Formica serving time in one of the very few criminal negligence cases won against an employer in New York City in the past decade, the deaths that continue to coincide with health and safety violations in construction highlight the urgency of more vigorously enforcing of criminal laws against such employers.



SEVERAL STUDIES HAVE SHOWN THAT LACK OF TRAINING IS ONE REASON FOR THE HIGHER INJURY RATES OF LATINO CONSTRUCTION WORKERS.

# TOWARDS MORE EFFECTIVE, BETTER FUNDED REGULATORY AGENCIES

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

OSHA administrators express a sincere desire to effectively enforce workplace safety standards. But they are stymied by a U.S. Congress that refuses to fund the agency so it can adequately monitor workplaces or to enact penalties that are strong enough to deter employers from endangering their workers.

### *Understaffed and overwhelmed*

OSHA has only a small fraction of the compliance staff needed to adequately inspect and enforce safety standards in the construction industry. According to our research at NYCOSH, in April 2014, there were only 71 OSHA safety and health inspectors to cover all workplaces in the state, a decline from 76 inspectors in 2013, 82 in 2011 and 76 in 2009.<sup>33</sup>

Because there are so few inspectors, only a small fraction of construction sites are ever inspected. The Center for Construction Research and Training reports that in 2010 OSHA inspected only

four percent of construction employers and that the actual percentage of construction worksites inspected was even smaller because multiple employers usually work at one worksite.<sup>34</sup> We found that from 2010 to 2012, OSHA conducted an average of only 4.4 construction inspections per day in New York State.<sup>35</sup> Considering that these were inspections not only of new construction, but renovation and demolition, there were potentially thousands of active job sites at any one time that could have been inspected. The chances of getting inspected were indeed slim.

As noted earlier, OSHA investigations of 89 percent of the height-related construction fatalities in New York in 2012 resulted in violation citations. Given the inadequate number of OSHA inspectors, it is not surprising that only 21 percent of employers with

fatalities had been inspected during the preceding decade and that one employer was previously inspected solely because there had been a previous fatality in 2010.<sup>36</sup>

Running a business with only a slight chance of facing an OSHA inspection not only undermines OSHA's credibility as an enforcer of worker safety requirements, but it denies public and private builders important information about the safety records of contractors they are considering hiring. Public construction agencies such as the New York City School Construction Authority report that as part of the process for pre-qualifying a contractor to work on a capital project they review the contractor's safety record. We reviewed OSHA records of the 351 contractors the School Construction Authority pre-qualified in six categories with the high exposure to height-related accidents dating back to 2009. Height-related accidents involved scaffolding, waterproofing, steel erection, membrane roofing, cast-in-place concrete, flashing and sheet metal. We found:

- Of the 351 pre-qualified contractors, 239 had not been inspected since at least 2009. For those contractors, there was no OSHA safety record to review.

In April 2014, there were **ONLY 71 OSHA SAFETY AND HEALTH INSPECTORS TO COVER ALL WORKPLACES IN THE STATE**, a decline from 76 inspectors in 2013, 82 in 2011 and 76 in 2009.



VS



OSHA INSPECTORS (2011)

OSHA INSPECTORS (APRIL 2014)

Source: New York Committee for Occupational Safety and Health, from a FOIA request to OSHA. Nationally, OSHA staffing levels have remained nearly unchanged despite population and employment growth. The agency had 1,006 Federal compliance officers in 2012, 1,017 in 2011, 1,106 in 1992 and 1,003 in 1982, and has gone from 10.1 officers per million workers in 1982 to 7.1 per million workers in 2012, according to the AFL-CIO's 2014 Death on the Job report.



- Eighty-two of the 112 contractors that had been inspected since 2009, 74 percent had at least one OSHA violation. Virtually all of these were “serious” violations, mostly of fall protection standards.
- If 74 percent of non-inspected contractors also had at least one violation, another 176 contractors would have had at least one violation on their record, had they also been inspected.

*OSHA penalties rarely rise to be proportionate to the level of danger of the violations*

Congress has not increased OSHA penalties since 1990, and even then penalties were so low that they were not a credible deterrent to employers cutting safety corners. In 2010, OSHA administrators increased penalties modestly through administrative means. For instance, they increased from three to five years the period for classifying a violation as “repeat” and began to increase penalties by 10 percent if the employer had been cited for a high-gravity serious, willful or repeat violation within the previous five years. However, in 2012, the Assistant Secretary of Labor for Occupational Safety and Health testified before Congress that the average penalty per violation nonetheless was “still quite low” and that his agency’s penalties were “still far lower than most regulatory agencies.”

CONGRESS HAS NOT INCREASED OSHA PENALTIES SINCE 1990

**CONGRESS HAS NOT INCREASED OSHA PENALTIES SINCE 1990;** the only time in 40 years that Congress has increased the penalties since it passed the Act in 1970. Even then, penalties were so low that they were not a credible deterrent to employers cutting safety corners.

**MAXIMUM PENALTIES ADJUSTED FOR INFLATION, 2000 TO 2010**

IMAGINE if OSHA fines were adjusted with inflation...



Source: House Hearing, 111 Congress. PROTECTING AMERICA'S WORKERS ACT: MODERNIZING OSHA PENALTIES. HEARING HELD IN WASHINGTON, DC, MARCH 16, 2010. 1.usa.gov/1NBbMH5

Thus, according to the AFL-CIO’s 2014 report on OSHA enforcement, *Death on the Job, A Toll of Neglect*, in FY 2013 the average penalty assessed for a serious violation in New York was only \$2,016.<sup>37</sup> And these already small fines almost always are reduced through an appeal before an administrative law judge, a formal conference, or an informal settlement. In the interest of reaching a settlement, employer negotiations with OSHA over penalties also often result in the agency deleting some violations, and their accompanying penalties.

Among the violations cited in 17 of 19 investigations of height-related construction fatalities in New York in 2012, the initial fine per fatality averaged \$10,328 and, after negotiated or adjudicated reductions, the fines averaged only \$7,620 per fatality<sup>38</sup> of which 14 were for less than \$10,000 and ten were for \$5,000 or less.

The following fatal accidents that occurred in 2012 illustrate the small initial penalties and the substantial penalty reductions that are obtained when OSHA settles with employers.

In Manhattan, a worker lost his footing coming off a roof and fell through a skylight. Two Gravity 10 fall protection violations were issued including the requirement to protect workers from stepping through holes, including skylights, by using covers. Penalties were reduced from \$5,000 to \$3,300 for each of the two violations.

- In Manhattan, a worker fell three stories from scaffolding. Gravity 10 violations of the requirement for workers on scaffolds to be protected by personal fall arrest or guardrail systems and of fall protection training requirement were cited. Penalties for the two violations were reduced from \$2,800 to \$1,848 each.
- In Lindenhurst, two employees were working on a scaffold when it collapsed. One employee had broken legs and the other a head injury. Four days later the employee with the head injury died. OSHA cited four Gravity 10 violations of scaffold standards and assessed penalties of \$11,200, reduced to \$8,000.
- In Merrick, a worker leaning over parapet at a school building construction project in died when he fell approximately 40 feet to ground. A Gravity 10 violation was cited for “unprotected sides and edges.”<sup>39</sup> The final penalty of \$2,700 was reduced from \$5,200.

As noted earlier, only four of the 17 employers which had been assessed penalties in fatal accidents in 2012 had been inspected by OSHA during the preceding decade. The penalties they were assessed as a result of the 2012 fatality investigation and the prior inspections were very modest:

- In Oswego, 37 year-old Lateef Haskins was installing a metal roof deck when he lost his footing coming down off the roof and fell through a skylight. His employer was issued a repeat Gravity 10 violation of the fall protection-in-steel-erection standard that requires a guardrail, safety net, personal fall arrest system. The penalty was reduced from \$10,780 to \$8,624 by an administrative law judge.<sup>40</sup> This employer had previously been cited for a total of ten violations and penalties totaling only \$15,330 as a result of inspections in November 2009, January 2011, July 2012, and July 2012.
- In Manhattan, a worker lost his balance while doing masonry work and fell five stories down a shaft. Total penalties of \$20,790 for two Gravity 10 scaffolding and fall protection violations were reduced to \$14,000 in a settlement. In four of the five previous inspections, the most recent in 2010, violations were cited and penalties were assessed. In all four of these inspections there was at least one violation of a scaffold of fall prevention standard. Penalties for the twelve violations between 2006 and 2010 totaled just \$21,875.
- In Manhattan, a worker was killed when a warehouse under demolition collapsed. A Gravity 10 violation was cited and a penalty of \$4,900 was assessed. This employer had been inspected in 2010 after a worker fell three stories and died. At that time a Gravity 10 fall protection violation and a Gravity 3 training requirements violation were assessed and the reduced penalty was \$1,687.

To be sure, occasionally a larger penalty more appropriate to the seriousness of the violations was assessed, typically when willful or repeat violations were cited. In the 2013 death of Kyle Brown, OSHA proposed an \$88,900 penalty, including for a willful violation, for which the maximum penalty is \$70,000. However, willful violations are rarely cited. From 2010 to 2012, OSHA issued a mere 30 “willful” violations in construction in New York, less than one percent of violations cited. The maximum penalty for a repeat violation is also \$70,000. From 2010 to 2012, there were only 164 repeat violations, five percent of the violations cited. And, nationally, the average penalty actually assessed is much smaller than the maximum allowed -- only \$39,509 for a willful violation and \$6,272 for a repeat violation. In Kyle Brown’s death, the willful violation penalty was reduced

## 65% OF WORKERS WORK ON SCAFFOLDING.



NYCOSH

from \$70,000 to \$35,000 and the total penalty was reduced to \$44,450 in an Administrative Law Judge decision.

The enforcement history of Long Island contractor Painting & Decorating illustrates how even an unusually large fine does not necessarily deter further violations.<sup>41</sup> In March 2010, Painting & Decorating was cited for four willful and three serious violations and assessed total penalties of \$102,600. The next month, at another site, this employer was cited for four willful, one repeat, and three serious violations, also of scaffold requirements, and assessed \$122,600. Yet in May 2013, Painting & Decorating was cited for an extraordinary ten repeat and five serious violations and assessed \$460,300, one of the largest OSHA penalties ever in New York.<sup>42</sup> The OSHA news release said that Painting & Decorating's workers had "repeatedly been exposed to deadly or disabling falls and crushing injuries."

## UNSAFE CONTRACTORS RAMPANT AFTER SANDY, OSHA VIOLATIONS NOT A DETERRENT

*The New York Daily News* investigation of post-Sandy cleanup work illustrated how OSHA is limited in its ability to force employers to comply with safety and health regulations, even in the face of the most serious safety lapses by employers:

"In the harrowing weeks after Hurricane Sandy, thousands of workers descended upon the destruction zone to safely clean up, tear down and rebuild homes wrecked by the storm. But for some, the good deed turned into a nightmare of dangerous conditions that led to serious injuries and even death. At the height of the Sandy cleanup, workers without protection fell from roofs, were shocked by exposed wires and injured by chemicals, records show. Federal inspectors... encountered 3,100 instances of unsafe job conditions, removing some 7,900 workers from hazards.

Although OSHA found thousands of cleanup workers doing jobs in unsafe conditions, almost no one was punished: OSHA issued violations in 32 cases, imposing minimal fines between \$1,000 and \$11,600 that totaled just \$141,934."

One worker, 54-year-old Ignacio Maldonado, was on a ladder when it crashed. He was in a coma for weeks before he died. His employer was assessed a \$4,000 fine for a faulty ladder. The Daily News reported that a co-worker was supposed to have held his ladder steady but no one was available.

– Erica Pearson, Greg B. Smith, "Safety rules often ignored in post-Hurricane Sandy cleanup, many workers put at risk," *NY Daily News*, April 28, 2013.

*About 30% of penalties have never been paid.*

Enforcement is made even weaker because some penalties are never paid. According to an analysis by the Center for Public Integrity in 2012, none of the original penalties in one out of ten cases since 2001 were collected. Overdue debts are given to a private collection agency to pursue, but according to the Center for Public Integrity's analysis of U.S. Treasury data, "only about 12 percent of OSHA debts have been collected in recent years."<sup>43</sup>

We found that five of the 17 employers that were assessed penalties for violations as a result of OSHA investigations of fatal height-related accidents in New York 2012 were referred to debt collection, owing total penalties of \$55,400.

"... ONLY ABOUT  
12 PERCENT OF  
OSHA DEBTS HAVE  
BEEN COLLECTED  
IN RECENT YEARS."

– CENTER FOR  
PUBLIC INTEGRITY

*Criminal penalties are not credible because, in 35 years, less than 85 cases have been prosecuted.*

A case can be referred for criminal prosecution under the Occupational Safety and Health Act, but this is virtually never done. According to the 2014 AFL-CIO report, *Death on the Job: The Toll of Neglect*, since the act was enacted in 1970, only 84 cases have been prosecuted, with defendants serving a total of just 89 months in jail. One reason there are so few prosecutions is that the maximum penalty is a mere misdemeanor, with at most a six-month sentence, so it is hardly worth prosecutors' time to pursue. Another reason is that criminal enforcement may be pursued only for those cases in which a willful violation results in a worker's death or where false statements are made in required reporting.

## PUBLIC EMPLOYEE SAFETY AND HEALTH BUREAU

The Public Employee Safety and Health Bureau (PESH), created in 1980, enforces safety and health standards spelled out under OSHA (with the exception of the recordkeeping rule) and several state standards for public sector employees. There are over 2 million public sector employees in New York State, which includes state, county, town, village governments, public authorities, school districts, and fire departments. PESH responds to deaths related to occupational safety and health, accidents that send public employees to the hospital, and complaints from public employees or their representatives.

While PESH and OSHA are two separate and distinct agencies, the two must work together where both have jurisdiction and a mandate to enforce safety rules in construction. PESH, like OSHA, is underfunded and has an inadequate number of inspectors across the state. The Public Employees Safety and Health Bureau (PESH) and the Occupational Safety and Health Administration (OSHA) must work together on construction and other public works project where both have jurisdiction and a mandate to enforce standards. Additionally, the number of PESH inspectors and the State Plan Budget for PESH need to be increased to ensure the agency's effectiveness.

# RECOMMENDATIONS

## MAKE OSHA ENFORCEMENT AN EFFECTIVE DETERRENT TO ENDANGERING WORKERS.

In 2003, contractors' liability insurance premiums were soaring nationwide, including in New York.<sup>44</sup> The New York State Department of Insurance held a public hearing on whether residual market insurance should be made available to help contractors afford coverage. The Executive Director of the General Building Contractors of New York testified, "Safety is the key to solving this problem, no question about it. It's within our control. It does make a difference."<sup>45</sup>

More than a decade later, his observation that safety is the key to solving contractors' rising liability insurance costs is still correct. This report shows, unfortunately, that there is still a long way to go in making construction sites safer. The first, and perhaps most important step, is to make OSHA a much more effective worker safety agency.

OSHA has launched efforts to reduce the rate of construction worker falls, including a *National Safety Stand-Down* this May to raise awareness among employers and workers about the hazards of falls and a Stop Falls Web page, <http://www.osha.gov/stopfalls>, with fact sheets, posters and videos in English and Spanish that vividly illustrate various fall hazards and appropriate preventive measures. These initiatives are part of OSHA's *Fall Prevention Campaign*, a nationwide outreach program to raise awareness among workers and employers about the hazards of falls from ladders, scaffolds and roofs. Such efforts are welcome, but to make a real impact on employers' safety practices and investment they must be backed by effective enforcement.

Lastly, OSHA must do more to protect immigrant workers by hiring additional bilingual OSHA compliance officers that can communicate with immigrant workers for whom English is not the primary language.

## REPEAT AND WILLFUL VIOLATORS OF HEALTH AND SAFETY LAWS MUST BE PROSECUTED UNDER CRIMINAL STATUTES AND SHOULD PAY INTO A SPECIAL FUND TO INCREASE THE NUMBER OF INSPECTIONS.

Given the limited number of OSHA inspectors and low fines for violators, many employers do not take OSHA violations seriously. Local district attorneys, attorney general offices, and federal prosecutors must more proactively identify criminal cases against employers who regularly show disregard for the lives of their employees. Currently, criminal charges are issued so infrequently that hazardous employers do not take them seriously.

As shown in the case of Formica Construction, many negligent contractors continue to create unsafe workplaces that result in deaths on the job. District attorney offices must be vigilant in identifying cases of criminal conduct and press for increased penalties for employers who break the law. In the case of Mr. Formica, 16 weekends in jail, where he would check in at 9AM and leave at 6PM so as not to disrupt his business, is a negligible price to pay for willingly creating an unsafe workplace. Employers who willingly create unsafe workplaces that lead to worker fatalities deserve to have their businesses disrupted, if not closed down altogether.

Additionally, fines paid by repeat and willful violators should go toward increasing the number of inspectors and inspections, so that egregious violators will help pay to make New York workers safer.

DISTRICT ATTORNEY  
OFFICES MUST  
BE VIGILANT IN  
IDENTIFYING CASES  
OF CRIMINAL  
CONDUCT AND  
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PENALTIES FOR  
EMPLOYERS WHO  
BREAK THE LAW.

## KEEP THE SCAFFOLD SAFETY LAW

Even though construction work at elevated heights is the most hazardous type of construction work and OSHA safety enforcement has proved ineffective, the construction and insurance industries are pressing Albany to “reform” New York’s Scaffold Safety Law (Section 240 of the Labor Law). Their “reform,” unfortunately, would relieve owners and contractors of much of their legal responsibility when their failure to provide appropriate and necessary equipment for work at heights causes a worker’s injury or death. If enacted, an effective deterrent to comprising safety would be lost.

The Scaffold Safety Law is effective because it prevents owners and contractors from excusing their safety lapses by blaming workers. Applying so-called “comparative” liability in height-related construction accident claims -- the “reform” the insurance and construction industries demand -- would make it much easier for contractors and owners who fail to provide the safe equipment the law requires to blame their workers for any injuries that result. It would ignore the construction site reality that workers who decline or use unsafe equipment may be told to take the day off without pay or could even be fired. “Comparative” liability does not recognize that owners and contractors, not workers, control construction site safety.

This report documents that there already are far too many preventable injuries at New York construction sites. Construction and insurance industry lobbyists must not be allowed to shift the safety burden onto workers. Their proposed “reform” would relieve owners and contractors of an effective incentive to make worksites safer. The Scaffold Safety Law must be protected to prevent even more worker injuries and deaths.

## CONCLUSION

The data presented in this report shows a disturbing trend in New York’s construction industry . Many employers tally fines with the cost of doing business instead of prioritizing workers’ safety and health on the job. As a result, construction workers—particularly non-union immigrant workers—often fear they are putting their lives at risk when they step onto a construction site. Advocates must continue to call for enhanced enforcement with heftier consequences for unsafe employers. All New Yorkers must be guaranteed a safe workplace. Construction work will always be hazardous, but it should not be deadly. In New York, that means protecting the Scaffold Safety Law, increasing OSHA staffing and enforcement, and finally enforcing the criminal laws against unsafe employers. New York’s construction workers deserve nothing less.

# ENDNOTES

- 1 2012 is the most recent year for which the U.S. Bureau of Labor Statistics has issued this data; 2013 data is preliminary.
- 2 Noriega, David. "Construction Work Is Getting More Deadly, But Only For Latinos." Buzzfeed News, January 6, 2015.
- 3 U.S. Bureau of Labor Statistics data.
- 4 U.S. Census American Community Survey "2006-2010 Employment Opportunities Tabulation"
- 5 The Center for Popular Democracy, *Fatal Inequality. Workplace Safety Eludes Construction Workers of Color in New York State*, October 2013.
- 6 Fisher, Janon, "Construction Worker Dies in Fall From NYU Building." DNAinfo, November 15, 2013.
- 7 New York Committee for Occupational Safety and Health, *It's No Accident, Examining New York's Workplace Deaths and the Construction Industry*, April 28, 2014. Inspections in the three construction Standard Industrial Classifications two-digit classifications, 15, 16 and 17, were reviewed.
- 8 Scaffold standards: 29 CFR 1926.450, 451, 452, 453; Fall protection standards: 29 CFR 1926.500, 501, 502; Steel erection standards: 29 CFR 1926.759, 760. Ladder standards: 29 CFR 1926, 1050, 1051; Stairway standards; 26 CFR 1926, 1052. Scaffold training standards: 29 CFR 1926.454; Ladder and stairway general requirements: 29 CFR 1926.1060; Fall protection training standards: 29 CFR 1926.503; Steel erection training standards: 29 CFR 1926.761.
- 9 As stated in an OSHA Region 2 news release, "US Labor Department's OSHA proposes more than \$272,000 in fines, cites four contractors for safety hazards at midtown Manhattan site," September 24, 2013,
- 10 Employers are in the SVEP if they had a non-fatality/catastrophe inspection with two or more willful or repeated violations or failure-to-abate notices that are high gravity (Gravity 10) violations related to High-Emphasis Hazards; a fatality/catastrophe investigation with one or more willful or repeated violations or failure-to-abate notices; non-fatality/catastrophe inspection with three or more willful or repeated violations or failure-to-abate notices that are high gravity violations related to the potential release of a highly hazardous chemical); or an egregious (e.g. per instance citations) case. The employer with 41 violations was in the "egregious" category.
- 11 OSHA Region 2 news release, op cit. The release reported that V&P Altitude Corp., a Brooklyn-based siding contractor, was issued five serious citations, with \$13,200 in penalties. OSHA subsequently settled for three serious violations and \$5,000 in fines. Also, the release reported, SMK Associates, an Astoria-based masonry contractor, was issued three serious citations, with \$7,600 in fines, and Maspeth Steel Fabricators Inc., a Maspeth-based steel framing contractor, was issued one serious citation, with a \$2,000 fine. Maspeth has settled for \$1,250.
- 12 Daniel Massey, "Flintlock: The Outsiders – How the Weiss brothers built NY's dominant nonunion contractor," *Crain's New York Business*, July 15, 2012.
- 13 Daniel Beekman, "City contractor to pay back \$600,000 it scammed from workers," *New York Daily News*, August 13, 2013.
- 14 The OSHA news releases reported that the violations and penalties in the examples below were proposed. The employers had an opportunity to comply, contest, or meet informally with the OSHA area director.
- 15 New York Committee for Occupational Safety and Health, *NY Scaffold Law Still Needed to Protect Construction Workers from Falls*, 2013.
- 16 The gravity classifications are: Gravity 10 (high severity, greater probability), Gravity 5 (medium severity, greater probability), Gravity 4 (low severity, greater probability), Gravity 3 (high severity, less probability), Gravity 2 (medium severity less probability) and Gravity 1 (low severity, less probability).
- 17 NYCOSH, op. cit.
- 18 According to DOB, a "worker fell" accident is one "where a worker's fall was not caused by material failure or construction equipment failure. Included in this category are accidents due to worker inattention, error or where the worker's protection equipment failed [e.g. harnesses]." DOB defines a "material fell" accident as, "Drop, displacement or failure of material or building element from its intended position or location. Included in this category are imminent material displacements, fall or failure." The material must have fallen on public property, such as a sidewalk. Scaffold/Shed/Fence/Shoring Installation accidents are defined as, "Failure of site protection, temporary support and access installations. This category also includes both supported and suspended scaffolds."
- 19 Chapter 33, New York City Building Code, Safeguards During Construction and Demolition.
- 20 The Department's website provides a brief description of each accident and of the violation that was cited. These are available at <https://www.osha.gov/oshstats/index.html>
- 21 Greg B. Smith, "Jobsite accidents in New York City jumped 31 percent from 2011 to 2012, while injuries up 46% in same period," *New York Daily News*, Sunday, January 13, 2013.
- 22 U.S. Census, American Community Survey "2006-2010 Employment Opportunities Tabulation."
- 23 Xiuwen Sue Dong, et al, "Work-related injuries among Hispanic construction workers: Evidence from the medical expenditure panel survey," *American Journal of Internal Medicine*, February 2010. The researchers controlled for factors such as age and construction occupation.
- 24 The Center for Popular Democracy, *Fatal Inequality. Workplace Safety Eludes Construction Workers of Color in New York State*, October 2013.
- 25 As reported in the ACS 2006-2010 survey, the most recent survey that asked for this information.
- 26 Michele Gonzalez Arroyo and Kelsie Scruggs, *Latino Construction Worker Resources Collection*, CPWR. 2014.
- 27 Center for Popular Democracy, op. cit.
- 28 Esther Hsiu Lee, "Vast Majority of Construction Site Deaths are Latino or Immigrant Workers." Think Progress. October 2013.

- 29 Construction worker dies after roof collapses at Staten Island car dealership. New York Daily News, November 28, 2014. <http://nydn.us/19BE0cc>
- 30 Monforton, Celeste, "Not an 'accident': Jesus Mendizabal, 43, Suffers Fatal Work-Related Injury on Staten Island, NY." Pump Handle. December 4, 2014.
- 31 Noriega, David, "Construction Work Is Getting More Deadly, But Only For Latinos." BuzzFeed News, January 6, 2015.
- 32 Wassef, Mirah, "OSHA to Investigate Sanitation Worker's Death at Richmond County Golf Course." Staten Island Live, November 14, 2014.
- 33 Source: New York Committee for Occupational Safety and Health, from a FOIA request to OSHA. Nationally, OSHA staffing levels have remained nearly unchanged despite population and employment growth. The agency had 1,006 Federal compliance officers in 2012, 1,017 in 2012, 1,106 in 1992 and 1,003 in 1982, and went from 10.1 officers per million workers in 1982 to 7.1 per million workers in 2012, according to the AFL-CIO's 2014 *Death on the Job* report.
- 34 Center for Construction Research and Training, *The Construction Chart Book, Fifth Edition*, April 2013.
- 35 This counts all of the inspections reported in OSHA's Integrated Management Information System.
- 36 Employers must report within eight hours all accidents in which a worker died and/or at least three workers were hospitalized as an inpatient as a result of a work-related injury. Beginning in 2015, employers must report within 24 hours all work-related accidents in which at least one worker was hospitalized as an inpatient and continue to report fatalities within eight hours. Also beginning in 2015, amputations and loss of an eye for the first time have to be reported within 24 hours.
- 37 AFL-CIO, *Death on the Job: A Toll of Neglect – A National and State-by-State Profile of Worker Safety and Health in the US, 23rd Edition*, May 2013. Initial fines are calculated according to the gravity of the violation and the number of employees a worker has. The largest penalty can be assessed for high gravity violations (also known as Gravity 10 violations). The maximum fine for a "low gravity" (Gravity 3) violation is \$3,000.
- Fines are automatically reduced by 60 percent for employers with 1 to 25 employees, 30 percent for employers with 26 to 100 employees and ten percent for employers with 101 to 250 employees. A ten percent good history reduction is also provided for employers that were not cited for high gravity serious, repeat or willful violations within the previous five years. Penalties for violations other than high gravity serious violations can be further reduced for "good faith," which is evidenced by an employer's effort to implement an effective workplace safety and health management system.
- 38 As of October 2014. It is possible that this average will decline further as a result of settlements or administrative law judge determinations.
- 39 The OSHA website reports that this inspection "has not been indicated as closed and information may change, e.g. violations may be added or deleted."
- 40 A final order was issued. However, the inspection has still not been indicated as closed.
- 41 Nationally, there were 119 cases in FY 2013 that had total penalties greater than \$100,000.
- 42 OSHA is not authorized to force an employer to remedy a hazard while a citation is being contested. The 2010 cases were not closed until March 2014. The 2013 case is still indicated as open.
- 43 Center for Public Integrity, *Even after workplace deaths, companies avoid OSHA penalties*, December 21, 2012. Their findings echoed those of a study in 2008 by the majority staff of the US Senate, Health Education, Labor and Pensions Committee, *Discounting Death: OSHA's Failure to Punish Safety Violations That Kill Workers* that found that employers fail to pay almost half of OSHA assessed penalties.
- 44 Construction industry trade groups in New York claimed that soaring premiums were making it difficult for many contractors to afford insurance and they attributed the increases to the Scaffold Safety Law. In fact, contractors' liability insurance premiums were soaring nationwide, in states without this law. One national industry publication reported at the time, "Probably the most critical issue in the roofing industry today is skyrocketing insurance rates." In 2003, the *Arkansas Business* reported, "Just three years ago, Larry Oaks paid about \$5,000 for general liability insurance for his Little Rock construction company. Today he's paying \$90,000 — a 1,700 percent increase. In Arkansas and across the country, contractors have seen their general liability rates soar. Some contractors in other states are seeing their rates rise 600-1,000 percent."
- 45 New York State Department of Insurance, transcript, Public Hearings on Insurance Coverage for Commercial Liability Markets, New York City, November 21, 2003.

# APPENDIX A

## New York City Department of Buildings Accident Details

Following are illustrative examples of accidents with at least one injury in which a “worker fell” or “material fell” in 2012 and 2013. The descriptions of the accidents are quotes from the “final descriptions” in DOB Monthly Accident Details reports and the descriptions of the cited violations are from the DOB Building Information Systems website, “Specific Violation Condition(s) and Remedy.” Bold text was added.

## ACCIDENTS REPORTED IN 2013

January 9. “Seven workers were injured when a crane collapsed. It was **“attempting to lift a load that was double the weight of its lifting capacity.”**”

January 30. A construction worker “was working on two sections of pipe scaffold when he lost his balance and fell approximately ten feet to the ground level. **No fall protection was in place.** The worker was taken to the hospital.”

February 21. “A worker sustained two broken legs when he was **pinned under a Temporary Switch Board that fell.** The unit fell onto the worker **when one of the slings used to hoist it shifted** causing the unit to drop onto the worker.”

March 18. “Three workers fell approximately twenty-five feet from the edge of the building within the core of the building when **the section of Q-decking on which they were standing gave way.**”

March 22. “Two workers were injured and transported to the hospital when the third floor partially collapsed. The **flooring system was not properly installed and was overloaded with CMU block and other construction material.**”

April 15. “A worker fell approximately thirty feet from a walkable platform being supported **by unsecured aluminum extension ladders** with cantilever mechanisms.”

April 26. “A worker was struck in the back of the head by formwork. Workers were removing concrete formwork from the thirteenth floor and passing it through an opening to the twelfth floor striking and injuring the worker.” A violation was cited for **“holes/openings not covered/secured.”**

May 6. “A worker was injured when a **2’x2’ section of wall dislodged**, striking the worker’s hip. The worker was performing façade brick worker from a supported scaffold. The worker was taken to the hospital.” Violations were cited.

May 21. “A worker was fatally injured when he fell while installing sheeting. The worker tried to **brace himself on an unsecured 2’x4’** during the construction of a dormer extension. The work was being performed without permits or plans.”

June 12. “A worker fell through the roof while moving filled plastic bags to the chute. **The staging area by the chute was overloaded** causing the roof to collapse.”

August 22. “A worker fell approximately twelve feet from a retaining wall **when the cinder block wall on top of the retaining wall collapsed.**” Violation cited: “Failure to safeguard all persons and property affected by construction operations... Work does not conform to approved construction documents.”

August 23. “A worker fell approximately twenty feet down the elevator shaft when the **cables he was leaning against snapped.** The worker suffered a laceration to his leg and was taken to the hospital in stable condition.”

September 11. “A worker fell five stories while installing corrugated decking at the roof level. The worker sustained multiple fractures and was taken to the hospital by ambulance. **The worker was not wearing a harness and no fall protection was installed.**” A violation noted “failure to provide guardrails (none on all openings throughout building on all floors, failure to provide handrails (none on all stairways on all floors), failure to provide toeboards (none at all openings throughout the building).”

September 24. “A worker fell approximately ten feet while performing stripping operations from a scaffold. **The worker was wearing a harness but was not tied to a lifeline.** The worker was taken to the hospital by ambulance with unknown injuries.” Violation cited, “**Failure to provide lifeline** while working on scaffold.”

September 30. “A worker was injured when a stone wall fell during excavation. **Shoring was not installed.**”

October 15. “A worker was injured when the **brick façade collapsed** at the sixteenth floor causing bricks to fall. The building was undergoing façade restoration at time of the collapse. **Improper shoring** and **lack of proper tie backs** contributed to the failure.”

October 21. “A worker fell approximately ten feet from a **makeshift ladder system** being used to access the interior water tank on the fourth floor.”

October 24. “A worker fell approximately eleven feet from the ground level into the vault on which he was working. **No fall prevention or arrest systems** were in place. The worker was taken to the hospital.” Among violations: “Tripping hazards on public walkway. Workers w/o OSHA 10 certification cards – had not been issued them... Failure to provide/use lifeline while working on scaffold.... On approx. 4 areas of public walkway, loose pieces of plywood covering holes, not secured. 2 workers doing pointing work at approx. 5th fl lvl of bldg. exterior. Workers were not tied off using lifeline system.”

November 14. “A worker lost his balance and fell approximately four or five feet through an **opening in the guardrail.**” Violations noted, “Failure to provide 3’-6” guardrail around open and accessible sides of excavation. Worker removed egress ladder and neglected to replace a guardrail at this location... Egress ladders were erected with poor footing and to move from 1 ladder to the next, workers had to straddle a plank.”

## ACCIDENTS REPORTED IN 2012

January 25. A worker fell from the balcony injuring his leg. **No site protection system was in place.** DOB: “**Inadequate fall protection noted:** upon inspection tension cables used as guard rails and toe boards. Loose pipe. Failure to institute/maintain safety equipment measures.”

February 10. "A construction worker was injured while removing a concrete bulkhead on the top of a **makeshift platform**. The platform **was overloaded and collapsed** approximately 20 feet into an open stairwell."

March 2. "Three workers were performing water proofing on the foundation wall **without sheeting or shoring**. A trench approximately three feet by four feet caved in trapping one worker. The worker was extracted and taken to the hospital."

March 6. "The Site Safety Manager reported to DOB that a construction worker **fell approximately ten feet from an unsecured ladder** and was taken to the hospital." In addition, DOB reported, "**Failure to conduct worker site safety orientation program** per site safety plan."

March 22. "During demolition operations a **section of the structure collapsed** injuring three workers, one fatality." DOB issued a stop work order and violation.

April 3. "A 1 1/2 story wood **frame building collapsed injuring four workers, one fatally**." DOB issued violations and a stop work order.

April 13. "A scaffold, from which workers were performing a façade inspection, dropped one story. **The left motor kept running and the emergency brake did not engage until the motor became jammed with a cable**." Violations included, "Failure to provide designated site safety manager at time of inspection of incident," and "suspended scaffold motor & noted operating a hoist motor with a defective plate over descent lever or auto descent level could not be enough due to a bent plant protecting lever."

April 13. A worker fell from the first floor to the basement. Violation noted, "**Improperly erected scaffolding**."

May 17. "A construction worker was fatally injured when he lost his footing and fell to the sidewalk shed below. The worker was attempting to retrieve his jacket and walked **across unsecured planks** that led from the fire escape to the stair tower. Violation stated: "All platforms shall be tied down (cleated) or otherwise restrained by books or equivalent means to prevent dislodgement." A stop work order was issued.<sup>1</sup>

May 24. "A construction worker was fatally injured when he fell from the third floor while working on the wood door of the library during an interior renovation." Violation: Noted interior renovation of 3rd story, Apt 3A, "**failure to provide required height guardrails or fall protection**."

June 21. "A worker was fatally injured when the worker was **struck by asphalt that collapsed into the trench** he was working in. Specific violations included: "Upon inspection no protection 45 angle of repose (there) septic tanks & dry well are being installed. **Excavation 20 ft deep no sheeting/shoring**. Work w/o permit. Upon inspection no permit issued for dry wells and septic tanks being installed at site."

July 2. "A worker was rescued from a fifth floor **window after the suspended scaffold he was working on collapsed**." DOB issued violations and a stop work order. Specific violations included, "Failure to maintain equipment in a safe manner. Noted @ time of inspection suspended scaffold @ EXP#1 had collapsed and was hanging by 1 cable. The motor on the right side failed when down button was rel."

July 3. "A worker fell from the eleventh floor to the tenth floor when he stepped on an **unsecured plywood covering** a vent hole." Violations included: "Plywood covering mechanical vent opening at south tower (11th floor) was not properly secured."

July 16. "A worker fell approximately sixty feet down an elevator shaft. **No evidence of a tie off point was observed** from where the worker fell."

July 24. "A construction worker fell twelve feet from a supported scaffold. **The workers personal safety equipment failed**."

July 30. "A worker fell onto the plank deck of scaffolding in an elevator shaft when he climbed onto the form work to access a bolt. The worker was conscious when taken to the hospital." Among violations: "Failure to institute & maintain safety equipment measures or temp construction. **No toe boards around an excavation approx. 25' deep @ 1 floor**."

August 7. "A worker fell approximately fifteen feet while extending the steel deck at the second floor. The worker was taken to the hospital." "Work w/o a permit. Illegal work noted."

September 10. "Two workers were injured, **one fatally, when the roof they were working on collapsed**." DOB issued violations and a stop work order. Specific violations included, "Failure to maintain adequate housekeeping. Construction materials/debris strewn throughout construction side creating hazardous conditions. Observed work in progress @ roof & structural work @ 1<sup>st</sup> and 2<sup>nd</sup> floors aren't complete. Substandard flooring, tie-back missing & full stop work order failure to maintain adequate housekeeping"

September 25. "A worker was fatally injured when he fell into a shaft. **No guardrails were installed around the shaft**." DOB issued violations and a stop work order. Specific violations included, "Worker fell down open shaft taken to hospital. (defects) throughout the job site... **Open shafts throughout, improper demo**..."

October 3. A worker fell approximately twelve feet when a **plank broke on the supported scaffold** being dismantled. DOB issued a violation." Violations included, "Work does not conform to approved construction plans. As per plan equipment installation notes: item 8 plank quality – plank @ top section gave way **causing injury to worker contrary to plan** which..."

October 8. "A worker was injured when the **top section of a wall being removed collapsed onto the scaffold** from which two workers were working. The work was being performed without a permit."

Violation stated: "Noted upon inspection at 1<sup>st</sup> flr space two workers removing an approx 20' high x 14' wide block wall w/o permits per records."

October 9. "A worker fell approximately twenty-five feet down an elevator shaft under the shaft protection during a concrete pour on the second floor. The worker was taken to the hospital with unknown injuries." Specific violations stated: "Failure to provide standard guardrail as per section." November 30. "A worker fell down the stairs and was taken to the hospital. **Exterior stairwell at the tenth and eleventh floors had no guardrail system installed**." Violation stated, "Failure to institute/maintain safety equipment measures or temporary construction no guard rails. Noted at corner of bldg. at northeast side on floors 9, 10, 11 wall has been removed @ no guard rail..."

<sup>1</sup> DNAINfo reported that the worker who died was not given the mandatory 30-hour training course on safety and a DOB spokesperson was quoted, "He was not working in a protected area with guardrails, and therefore should have been wearing a safety harness and have it secured to an anchorage point."

# APPENDIX B

## OSHA inspections since January 1, 2014 of HPD Enhanced Review contractors (Nov 2014 list)

CONTRACTOR	# OF VIOLATIONS. 1 INSPECTION PER ROW	COMMENT ON VIOLS	OTHER INFO
Allstate Interiors	0		"Allstate Interior Demolition" -- same address
	0		
	1		
Apartment Rehabilitation Corp	No inspections		
Applied Construction	0		Daily News, 8/8/13: "In March, the owner and two employees of Applied Construction Inc. were arrested on underpayment charges in the Bronx."
	0		
	0		
Artec Construction & Development	1	1 serious, "fall protection" (2011)	
	1	1 serious, "stairways" (2011)	
	4	All serious, a Gravity 10 violation was "duty to have fall protection. (2012)	
Bayview Real Estate Consultants	No inspections		
C & A General Contracting	No inspections		
C.J.L. Construction	5	5 serious, 2 are Gravity 10, including ladders (2011)	Listed by OSHA as Cjl, Inc (Bronx)
Delight Construction	3	3 serious violations relating to wiring	
DeWaters Plumbing and Heating	No inspections		
Enviro & Demo Masters Inc	No inspections		
Fairmont Industries	No inspections		
F. Rizo[s] Renovation Corporation*	No inspections		Daily News 4/12/14: But at an affordable housing project a few blocks away, builder MDG Design and subcontractor F. Rizos, settled federal wage-cheating charges in April 2013 by agreeing to pay \$960,000 in back wages.
U.S. Tech	No inspections		
Galaxy General Contractors	2	2 serious violations re stairways, 2010	
	3	2 serious violations re stairways (one repeated) and 1 serious re fall protection 2010	
	0	(2010)	
	0	(2010)	
Great American Construction	1	Gravity 5, duty to have fall protection (2011)	Daily News: 9/19/12 "City urged to dump Great American Construction, whose chief William Clarke was indicted on bribery charges. Company has 4 projects working in Brooklyn and the Bronx. Activist group Communities for Responsible and Equitable Housing is pushing Department of Housing Preservation & Development to bar Great American, arguing for new policy to exclude firms facing criminal charges." NY Times, 8/19/12: "The developer, Thomas J. Metallo, president of Great American Construction, which built the 31 Marcy row houses, referred questions to the city's housing agency. But a spokesman for the company later issued a statement saying the company "stands behind the quality of its homes."
	2	Both were Gravity 3, serious (2010)	
	5	All violations were Gravity 3, serious. (2010)	
Larino Masonry	5	Included two repeat violations re "stairways" (2010)	April 2014 DN article said they were on HPD list. "In February, Larino and another subcontractor agreed to pay \$959,000 in back wages, and Larino can't bid on federal jobs for three years. Larino remains on HPD's list of "enhanced review" contractors." Larino's lawyer, Vincent Martinelli, said the firm worked out a settlement to provide "full and satisfactory reimbursements," adding, "Larino Masonry regrets the mistakes made and is extremely thankful that all claims have been fully satisfied to those valued employees."
	8	Includes Gravity 10 duty to have fall protection, scaffold violations, among others. (2010)	
	0	(2009)	
Lemle & Wolff	No inspections		DN, 11/16/14: The department noted the developer was Lemle & Wolff, but did not mention that the company was on the review list and owed \$500,000 in back wages. As of last week, the developer was down to \$100,000. Lemle & Wolff did not return calls seeking comment.

<b>Lettire Constuction</b>	0	(2011)	NY Times –July 2012 “The Labor Department announced on Thursday that Mr. Lettire, a founder of Lettire Construction, had agreed to guarantee payment of about \$960,000 in back wages and fringe benefits for dozens of workers employed by his subcontractors as part of a settlement of a case brought against the company last year.”	
	3	All are Gravity 10. Two are regarding stairways. (2011)		
	0	(2009)		
<b>Masonry Services, Inc</b>	14	Two willful, 1 repeat. Proposed penalty of \$181,280 (2012)	Daily News: 8/8/13. “City contractor that cheated workers out of \$600,000 agrees to pay back wages. Masonry Services Inc. paid workers on a taxpayer-funded affordable-housing project in Brooklyn as little as \$8 an hour even though it was legally required to pay more than \$53 an hour.”	
	4	OHSA: Penalties Referred to Debt Collection (2011)		
	1	Aerial Lifts – Gravity 10 (2011)		
	2	1 viol for fall protection (2010)		
	2	(2010)		
	2	(2010)		
	4	Includes gas welding, scaffold (2010)		
	0	(2010)		Follow-up inspection
	0	(2010)		Partial inspections
<b>Mascon Restoration</b>	3	Includes 1 repeat violation of duty to have fall protection.	Daily News 4/8/12: “Mascon and three other construction management firms – JF Contracting, Promanagement Associates and Delcor Associates – had to shell out \$1,178,323 to the controller’s office for failing to pay prevailing wages and benefits to workers as the law mandates on city funded projects. The firms were hired by the Department of Housing Preservation and Development to inspect and repair the agency’s buildings.	
<b>Mega Contracting</b>	0	(2013)	Daily News 11/16/14: “One of the contractors got off the list earlier this year. Mega Contracting settled up by paying \$1.1 million in back wages owed by its subcontractors and agreeing to be monitored on three projects. The monitor gave the company a clean bill of health, and it was taken off the list.”	
	0	(2013)		
	0	(2012)		
	0	(2010)		
	1	(2009)		
	5	(2009)		
	2	(2009)		
<b>MCR Restoration</b>	No inspections			
<b>MC &amp; O Contracting</b>	0		Daily News 4/12/14: MC&O has been hit with \$266,000 in federal Occupational Safety and Health Administration fines for dangerous work-site conditions in 14 incidents since 2004, starting with a worker who fell 64 feet to his death at a job in the Bronx. To date the firm has paid \$149,000 to settle the cases.	
	1			
	1			
	1			
	1			
	1			
	0			
	1			
	1			
	2			
	3			
2				
<b>MDG Design and Construction</b>	1	Serious re medical services, 1 <sup>st</sup> aid (2011)	DN, 4/12/14 “To date, the biggest wage cheating case in the city involves MDG Design. The \$4.5 million decision ordered by the U.S. Department of Labor found MDG owed back wages from work at an HPD-funded project called Grand Street Guild. MDG has contested the finding.”	
<b>Mountco Construction</b>	1	Serious, re wiring (2014)	DN: 11/16/14: At the time, a Sugar Hill contractor, Mountco Construction, had been placed on the enhanced review list, owing \$610,000 in back wages. As of last week, Mountco still owed \$300,000, and is building more apartments at another project in the Bronx, Common Ground.	
	1	Serious, re stairways (2012)		
<b>NotiasConstruction</b>	7	Violations were serious, 3 repeat, inc fall protection, stairways etc (2011)	Daily News 11/16/14: Notias Construction also got off the list by paying off \$500,000 in back wages.	
<b>Procida Construction</b>	0		Daily News 3/4/13: “A Bronx contractor is set to pay nearly \$1 million to workers stiffed during taxpayer-funded construction of affordable housing for seniors. Procida Construction Corp. must reimburse dozens of underpaid workers and owes the state \$50,000 in penalties, Attorney General Eric Schneiderman announced Monday.”	
	0			
	0			
<b>TMA Contracting</b>	No inspections			
<b>Sant-Tec Electric</b>	1			

## ABOUT NYCOSH

The New York Committee for Occupational Safety and Health (NYCOSH) is a membership organization of workers, unions, community-based organizations, and workers' rights activists. NYCOSH uses training, education, advocacy, and organizing to improve health and safety conditions in our workplaces, our communities, and our environment. Founded 35 years ago on the principle that workplace injuries, illnesses and deaths are preventable, NYCOSH works to extend and defend every person's right to a safe and healthy workplace and community.

