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Energy Efficiency Letter Grades Do Not Predict Fines for Carbon Emissions

By Bill Morris

True or false: Co-ops and condos with A or B letter grades for energy efficiency will be immune to the fines that arrive in 2024 for buildings that fail to meet carbon-emission caps under the Climate Mobilization Act's Local Law 97.

False.

Case in point: a 450-unit co-op in a 32-story prewar building on the East Side of Manhattan has an ENERGY STAR score of 74 based on its water and energy consumption, which translates into a B letter grade for energy efficiency. Despite this impressive grade, if the co-op board does nothing to reduce the building's carbon emissions, it will face annual fines of $48,917 beginning in 2024, rising to a staggering $236,666 beginning in 2030.

Those numbers come from the co-op's management company, Orsid New York, which has been working with the consultancy En-Power Group to provide its 200 co-op and condo clients with hard data. That data points to a fact many boards still choose to ignore.

"There isn't a good correlation between the letter grade and the fines they're facing," says Dennis DePaola, executive vice president and director of compliance at Orsid New York. "Buildings with good letter grades can still get hit with penalties. You can't rely on the letter grades. You have to look at the measures you can take to avoid penalties."

The notion that a good letter grade will protect a building from fines is the result of a fundamental misconception. Letter grades, based on mandatory benchmarking data, reflect a building's water and energy consumption compared to buildings of similar size and use nationwide. The carbon caps — and the fines for failing to meet them — are the result of unrelated calculations by the authors of Local Law 97. (The Department of Buildings is expected to release final rules on compliance later this year.)

And it’s not just property managers like DePaola who are seeing a disconnect among boards. William McCracken, a partner at the law firm Ganfer Shore Leeds & Zauderer, explained the difference between letter grades and carbon caps to a co-op board president on the Upper West Side. “She said, ‘I get it, but I’m still concerned about our letter grade,’” McCracken says. “The concern she had was for the building’s reputation, and that’s a legitimate issue — as long you realize it’s not related to the building’s carbon emissions and possible fines.”

Ben Milbank, senior project development engineer at Ecosystem Energy Services, sees some positive signs. “I think people are slowly coming around to the realization that Local Law 97 is real,” he says, “but most boards don’t realize what kind of fines they’re facing. One of the positive things is that some of the carbon reductions will be accomplished by the greening of the city’s electric grid.” He’s referring to the imminent arrival of electricity from renewable sources, including wind and solar farms as well as hydroelectric power from Canada.

His advice? “I would advise boards to ignore their letter grades. The momentum is building toward electric heat pumps. If you’re still burning oil, you’re at a big risk of getting fined.”

DePaola of Orsid says the hard data is producing changes. Many boards have been spurred to pick the low-hanging fruit — insulating pipes, installing LED lighting in common areas, converting a boiler from oil to natural gas, installing a separate domestic hot water system so the boiler doesn’t run year-round. Others are tackling more ambitious projects, installing cogen systems or solar panels, or switching from fossil fuel-fired boilers to electric heat pumps. Habitat reported recently on a Yonkers co-op that’s installing a 12-feet-tall, 10-feet-wide array of wind turbines on one of its three roofs. Such steps will have no effect on energy-efficiency letter grades, but they will reduce carbon emissions and any potential fines.

“Boards need to take this data into account when they’re preparing operating budgets,” DePaola says, “but they should also use it for long-term capital planning for the next five to 10 years. Boards should be saving now for those projects.”