The New York City Department of Sanitation (“DSNY”) is proposing to amend its existing sanitation rules to require new and converted buildings classified as multiple dwelling buildings having 300 or more dwelling units to provide an enclosed “Waste Containerization System” that would support a garbage truck entering a building to pick up waste. The purported goal of the proposed rule is to limit the large piles of garbage bags that are placed curbside on narrow sidewalks, accessible to rodents and other pests.

The details of the proposed rule are thus far vague, but we understand from various sources that DSNY intends to require (i) enclosed Waste Containerization System facilities in subject buildings having a minimum height of 25 feet to allow the sanitation trucks to lift the containers into their vehicles; (ii) the replacement of Easy Pak containers with Roll On/Roll Off (“RoRo”) containers, having a trash compaction function (even if trash is compacted prior to being placed in the RoRo container); (iii) that the Waste Containerization System facilities have a minimum footprint of 15 feet by 30 feet, with at least 3 feet clearance on all sides, plus additional space for hydraulics and mechanical equipment; and (iv) that the Waste Containerization System facilities have street frontage for DSNY vehicular access. The rule proposes that discretionary waivers may be available on a case-by-case basis, but, if such waiver is not granted, DSNY will suspend or deny waste collection to any building that does not comply with the proposed rule.
Certain property owners, while sharing the same goals as DSNY, believe that resolving this problem by requiring developers to build a system that fails to take into account the actual size of the building, resident population, zoning regulations, Building Code, site constraints, and the cost of such structure and equipment, makes compliance with this proposed rule infeasible. From the information available, it appears the proposed rule requires the use of potential income-producing space in a development without compensating the property owner for that lost space with additional floor area.

A public hearing was held on May 28, 2020, with comments required to have been submitted on that same date. Rules typically take effect 30 days after the final version of the rule is published. We will continue to monitor this rule and provide update upon release of the final published rule.

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