

ADJACENT PROPERTY ACCESS & RPAPL § 881

OUR PRACTICE

Construction in New York City often requires temporary access to adjoining properties, making negotiating license agreements a critical part of project planning and risk management. Whether the work involves new development, demolition of an existing building, renovation of a townhouse, repair work or compliance with New York City's Façade Inspection & Safety Program (FISP f/k/a Local Law 11), developers and neighboring property owners need experienced real estate and construction attorneys to protect their legal, financial and property interests.

At Rosenberg & Estis, P.C., we have an industry-leading team of attorneys renowned for their expertise in this niche practice area. With extensive experience representing developers, landlords, condominiums, cooperatives (co-op), property owners (commercial and residential) and construction professionals, we handle all aspects of adjacent property access. Well-respected among their peers, our attorneys have earned reputations for being skilled and aggressive, yet, fair and reasonable, enabling them to successfully negotiate license agreements quicker and more efficiently with their counterparts. Because of this experience, R&E's team prides itself on being able to effectively negotiate license agreements without the need to seek, or defend against, requested access through litigation, but is also well-equipped to handle RPAPL § 881 special proceedings in New York courts.

OUR SERVICES

We negotiate license agreements on behalf of developers seeking access to their neighbor's property to install temporary protection, such as roof protection, scaffolding and monitoring equipment, as well as adjoining owners responding to access demands, giving us a distinctively strategic perspective in every matter. Our knowledgeable attorneys deftly and efficiently draft and negotiate license agreements that address New York Building Code requirements and the unique conditions of adjoining properties, while carefully anticipating and reducing exposure to risk.





AREAS OF FOCUS

Because we represent both petitioners and respondents in RPAPL § 881 special proceedings in New York courts, we understand the legal, financial, and practical concerns facing all parties.

FOR DEVELOPERS AND PROJECT OWNERS, WE FOCUS ON:

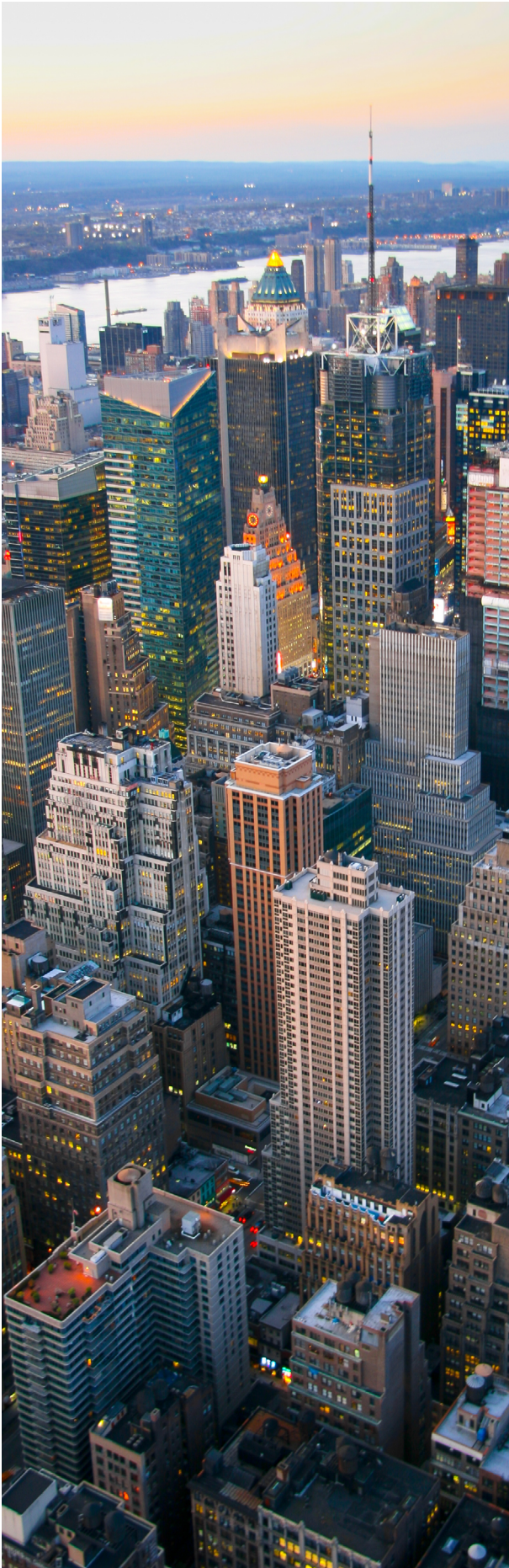
- Fast access solutions
- Reduced construction delays
- Enforceable protection protocols
- Cost-effective licensing terms
- New York Department of Buildings (DOB) and New York City Building Code compliance

FOR NEIGHBORS AND ADJOINING OWNERS, WE FOCUS ON:

- Limiting intrusive access
- Protecting structural and facade conditions
- Maximizing license fees
- Requiring strong indemnification and insurance
- Preventing unnecessary construction risk

This balanced experience allows us to resolve disputes efficiently while protecting long-term property value and development timelines.

When access disputes cannot be resolved amicably, our team steps in to prosecute and defend RPAPL § 881 special proceedings throughout New York City, obtaining court-ordered access for construction needs, while also safeguarding the interests of adjacent owners. Through this focused and strategic practice, we have secured strong results for developers and residential and commercial property owners, becoming the real estate industry's go-to firm for RPAPL § 881 litigation.



NOTABLE WORK

DEVELOPERS/PROJECT OWNERS

- Represented an educational institution in connection with obtaining access to perform FISP (a/k/a Local Law 11) work at six different buildings with eighteen different neighbors
- Represented a condominium board in connection with obtaining access to perform FISP (a/k/a Local Law 11) work with four neighbors
- Represented a developer in connection with multi-year office to residential conversion projects in obtaining access from neighboring property owners
- Obtained a court order granting co-op building access, pursuant to RPAPL § 881, to complete FISP (a/k/a Local Law 11) project, and denying adjacent owner's application for a license fee and reimbursement of attorneys' fees
- Obtained a court order for a homeowner in Harlem, pursuant to RPAPL § 881, to perform a townhouse renovation project which required installing protections on a neighboring townhouse

ADJACENT PROPERTY OWNERS

- Represented a homeowner of an upper east side townhouse in connection with access sought by a neighboring townhouse's renovation project
- Represented a new homeowner in Brooklyn in connection with access sought by a neighbor's development project which caused significant damage to her house
- Represented an owner of a large rental building in connection with access sought by a neighbor to perform FISP (a/k/a Local Law 11) work where the temporary protections would eliminate a significant portion of amenity space
- Obtained a temporary restraining order and preliminary injunction enjoining and restraining further construction on a 21-story building due to damage caused to client's landmarked residential building, and obtained dismissal of developer's RPAPL § 881 proceeding
- Obtained favorable settlement for condominium board against Fortune 50 company based upon damage caused to condominium building by company's massive construction project



FREQUENTLY ASKED QUESTIONS

What is RPAPL § 881 in New York?

- RPAPL § 881 allows a property owner to seek a court order granting temporary access to an adjoining property when access is necessary to complete improvements or repairs through a special proceeding.

Do FISP (a/k/a Local Law 11) facade repairs require neighbor access?

- Often yes. Many facade inspections, probes, and repairs require installing roof, sidewalk, or yard protections on neighboring properties.

Can a neighbor refuse adjacent access in NYC?

- A neighbor may refuse voluntary access, but the requesting owner may petition a New York court under RPAPL § 881 for a license granting reasonable temporary access.

Who pays for protection and damage risks under RPAPL § 881?

- Typically, the party requesting access bears the costs of the protections, insurance, professional fees, and damage repair obligations.

Are developers required to obtain a license for access from individual unit owners or just the condominium board?

- Whether a developer is required to obtain a license for access from an individual unit owner often depends on the scope of the access required and whether the condominium's declaration or bylaws designate the area to be protected is a limited common element for which the unit owner is responsible to maintain. For example, if a developer seeks to install protection on a condo unit's terrace, the developer may need to negotiate a license agreement for access if the condominium's governing documents provide that the unit owner is responsible to repair and maintain the terrace.

Rosenberg & Estis's Adjacent Access Group is trusted by developers, landlords, cooperatives, condominiums, cooperatives, commercial owners, and neighboring property owners across NYC for sophisticated guidance in one of the city's most specialized real estate litigation and construction law practices.