

NOVICK, EDELSTEIN, LUBELL, REISMAN,
WASSERMAN & LEVENTHAL, P.C.
ATTORNEYS AND COUNSELLORS AT LAW
733 YONKERS AVENUE
YONKERS, NY 10704

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FAX (914) 375-0699

EXEC-FILES-ALBANY (914) 375-0100

I. SCOTT EDELSTEIN
ROBERT H. LEVENTHAL
PETER A. LUBELL
EUGENE S. REISMAN
EDWARD FRIEDMAN
PETER A. LIFSON
RAMONA L. GOODMAN
LAWRENCE T. SCHIRO
CRAIG D. ZIM
CHARLES D. WASSERMAN

MATTHEW L. GORDON
PAUL T. FINKELSTEIN
STEVEN M. LESH
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MICHELI PEREZ
ERIN LAROCCA
JOSEPH A. JACOBSON
FRANCISCO RIVERA
AUTREY JOHNSON
KELLY KRUSZEWSKI

October 17, 2014

Hon. Kathleen H. Burgess
Secretary, New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12233

Richard C. Fipphen
Verizon
140 West Street - 6th Floor
New York, New York 10007
& Via Email: Fipphen@verizon.com

Brian Ossias, Esq.
Assistant Counsel
Department of Public Service
State of New York
Three Empire State Plaza
Albany, New York 12223-1350
& Via Email: Brian.Ossias@dps.ny.gov

**RE: PETITION OF VERIZON NEW YORK INC.
FOR ORDERS OF ENTRY FOR 65 MULTIPLE
DWELLING UNIT BUILDINGS IN THE CITY OF NY
CASE NO.: 14-V-_____**

Dear Judge Burgess/Mr. Fipphen/Mr. Ossias:

I represent Walton Ave. Assoc. LLC, the owner of 1454 Walton Avenue, Bronx, New York. They received your correspondence dated October 10, 2014 indicating we had not timely replied to the initial inquiry (see attached). You are in error. We responded on September 17, 2014 (see attached).

Very truly yours,


Lawrence Schiro, Esq.

LS:jn
Encs.

cc: Matthew Schmelzer
Tryax Realty Management Inc.
60 Cuttermill Road - Suite 208
Great Neck, New York 11021
& Via Email: matthew@tryaxrealty.com

Eugene Reisman - Via Email

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.ny.gov

PUBLIC SERVICE COMMISSION

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Commissioners



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General Counsel

KATHLEEN H. BURGESS
Secretary

October 10, 2014

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Walton Avenue Associates, LLC

60 Cuttermill Road

Suite 208

Great Neck, NY 11021

Re: Matter No. 14-01725 – Petition of Verizon New York Inc., for Orders of Entry for 54 Multiple-Dwelling Unit Buildings in the City of New York

To Whom It May Concern:

On August 27, 2014, Verizon New York Inc. (Verizon) filed a Verified Petition for Order of Entry for the Premises located at 1454 Walton Avenue, Bronx, New York. A copy is enclosed for your review. Verizon is requesting entry to the premises to install its facilities. Pursuant to this letter, please provide a written response to Verizon's petition within ten (10) days of receipt of this letter. Your response should be filed with Kathleen H. Burgess, Secretary to the Commission, 3 Empire State Plaza, Albany, New York 12223-1350, or email, Secretary@dps.ny.gov, or myself at the email listed below. Attached for your convenience, please find a document of Frequently Asked Questions regarding the Right of Entry. Should you have any questions, please feel free to contact me at the email listed below.

Sincerely,

Brian Ossias, Assistant Counsel
Department of Public Service
State of New York
Three Empire State Plaza
Albany, NY 12223-1350
Brian.Ossias@dps.ny.gov

Enclosure

CC: Verizon New York
(without enclosure)

NOVICK, EDELSTEIN, LUBELL, REISMAN,
WASSERMAN & LEVENTHAL, P.C.
ATTORNEYS AND COUNSELLORS AT LAW
733 YONKERS AVENUE
YONKERS, NY 10704

FAX (914) 375-0699

(914) 375-0100

I. SCOTT EDELSTEIN
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EUGENE S. REISMAN
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KELLY KRUSZEWSKI

September 17, 2014

Hon. Kathleen H. Burgess
Secretary, New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12233

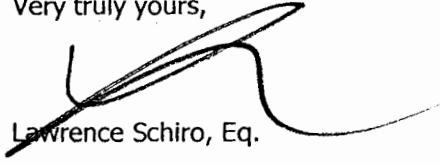
Verizon
140 West Street - 6th Floor
New York, New York 10007
Attn: Richard C. Fipphen
& Via Email: fipphen@verizon.com

**RE: PETITION OF VERIZON NEW YORK INC.
FOR ORDERS OF ENTRY FOR 54 MULTIPLE
DWELLING UNIT BUILDINGS IN THE CITY
OF NEW YORK**

Dear Judge Burgess/Mr. Fipphen:

I enclose an answer to Verizon's Petition for access on behalf of Walton Avenue Associates, LLC.

Very truly yours,


Lawrence Schiro, Eq.

LS:jn
Enc.

cc: Matthew Schmelzer
Tryax Realty Management Inc.
60 Cuttermill Road - Suite 208
Great Neck, New York 11021
& Via Email: matthew@tryaxrealty.com

Eugene Reisman
Via Email

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

-----X

PETITION OF VERIZON NEW YORK INC.
FOR ORDERS OF ENTRY FOR

ANSWER TO PETITION SEEKING
ORDER OF ENTRY

CASE NO.: 14-V-_____

54 MULTIPLE DWELLING UNIT BUILDINGS
IN THE CITY OF NEW YORK

-----X

Walton Avenue Associates LLC, by their attorneys, NOVICK, EDELSTEIN, LUBELL, REISMAN, WASSERMAN & LEVENTHAL, P.C., answers the Petition seeking an Order of Entry as follows:

1. Respondent denies so much of paragraph 1(1) that alleges that Respondent failed to respond to Verizon's letter requesting access to install fiber-optic facilities to provide cable television service and denies paragraph 1(2) which alleges Respondent affirmatively denied Verizon's request for access.

2. Respondent denies paragraphs 4, 6 and 8 of the Petition.

3. Respondent denies knowledge or information sufficient to form a belief as to paragraphs 2, 3, 5 and 9 of the Petition.

I. AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. Respondent by counsel sent correspondence to Petitioner on May 14, 2014, responding to Petitioner's request for access.

5. That simply, Respondent requested that the FIOS construction coordination sheet be amended to provide that:

(i) the installation of any three-prong grounded outlet in any tenant's apartment must be done at the sole cost and expense of Petitioner or the residential tenant in occupancy pursuant to §228 of the New York Public Service Law;

(ii) the agreement be modified to provide that any electrical installation on behalf of any party at the premises be performed by a licensed electrician.

6. That subsequently on June 27, 2014 Petitioner indicated that Respondent was not cooperating and had not responded to Petitioner's request, which is simply incorrect.

7. That on July 10, 2014 Respondent's counsel again wrote to Ms. Alyson Seigal who, pursuant to paragraph 5 of the Petition, is the person primarily responsible for the proposed installations, again requesting that Respondent's concerns be addressed.

8. Since July 10, 2014 Petitioner has done nothing and has not responded.

II. AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. The statute relied on by Petitioner, 16 NYCRR §898 and the Public Service Law §228 et seq. are unconstitutional as applied herein and unconstitutional on their face under the New York State Constitution.

III. AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. If the Commission finds that access must be provided, Respondent requests just compensation pursuant to 16 NYCRR §898(2) and §898.5.

IV. CONCLUSION

WHEREFORE, Respondent requests relief accordingly, together with whatever other further and just relief the Commission deems just and proper.

Dated: Yonkers, New York
September 17, 2014

Yours, etc.



NOVICK, EDELSTEIN, LUBELL, REISMAN,
WASSERMAN & LEVENTHAL, P.C.
ATTORNEYS FOR RESPONDENT
BY: LAWRENCE SCHIRO, ESQ.
733 YONKERS AVENUE
YONKERS, NEW YORK 10704
(914) 375-0100
(914) 375-0699 [FAX]
lschiro@novickedelstein.com

TO: Verizon
140 West Street - 6th Floor
New York, New York 10007
Attn: Richard C. Fippen, Esq.
& Via Email: richard.fippen@verizon.com

Hon. Kathleen H. Burgess
Secretary, New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12233

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

-----X
PETITION OF VERIZON NEW YORK INC.
FOR ORDERS OF ENTRY FOR

VERIFICATION

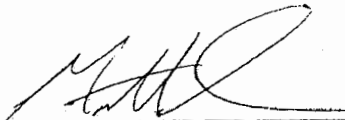
CASE NO.: 14-V-_____

54 MULTIPLE DWELLING UNIT BUILDINGS
IN THE CITY OF NEW YORK

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STATE OF NEW YORK)
) ss.:
COUNTY OF)

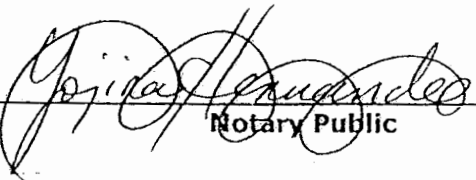
MATTHEW SCHMELZER, being duly sworn, deposes and says:

I am the Executive Vice-President of Tryax Realty Management Inc., managing agent for Walton Avenue Associates LLC. I have read the foregoing answer. It is true based on my personal knowledge or where I rely upon information and belief, which is formed by my review of my books and records.



Matthew Schmelzer

Sworn to before me this
16th day of September, 2014



Notary Public

Yojira Hernandez
Notary Public-State of New York
Qualified in Bronx County
My Commission Expires 01/27/2018
NO. 01.1E6296198



Alyson M. Seigal
Area Manager
FiOS Franchise Assurance – New York City

140 West Street, Room 1105
New York, NY 10007
Phone: (888) 364-3467
NYCFiOS@verizon.com

June 27, 2014

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED AND FIRST CLASS MAIL

Property ID: 8099820
Michael Schmelzer
Tryax Realty Management
60 Cuttermill Road, Suite #208
Great Neck, NY 11021-3104

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service at:
1454 Walton Av, Bronx NY

Dear Property Owner/Manager:

I have been advised by Verizon New York Inc.'s ("Verizon") NYC FiOS Real Estate Department of the difficulty Verizon has encountered in attempting to install and/or attach its FiOS facilities at **1454 Walton Av, Bronx NY** ("Property"). Our records indicate that you have not responded to our previous correspondence, that you have conditioned Verizon's access on unreasonable terms and conditions or that you have denied Verizon access to the Property. The purpose of this letter is to restate our need to gain access to your Property.

By way of background, Verizon is attempting to gain access to your building because we have received a request for FiOS service(s) from a tenant(s) in your building and/or a resident(s) on your block, and our access to your Property is necessary to provide cable television services to those tenants and/or residents. We are very excited about the opportunity to provide world-class voice, data and video services to you and the area residents using a fiber based network to deliver these services at unprecedented speeds and capacities. Your cooperation in allowing Verizon access to your Property will enable your tenants and/or other residents on your block to receive the services they want in a timely manner.

However, in the event that you do not cooperate in providing Verizon access, you should know that under Section 228 of the New York Public Service Law and Part 898, Title 16 of the New York Codes, Rules and Regulations ("NYCRR"), Verizon has the right to install cable television facilities upon the Property. *Loretto v. Teleprompter Manhattan CATV Corp.*, 53 N.Y. 2d 124 (1981). Section 228 of the New York Public Service Law states that "[n]o landlord shall interfere with the installation of cable television facilities upon his property or premises" In addition, Verizon's Cable Franchise Agreement with the City of New York requires Verizon to provide cable television service to residents in its franchise area who request it, and Verizon has a limited timeframe in which to do so. Verizon's compliance with these franchise requirements may be compromised by the delay we are experiencing in trying to gain access to and install cable television facilities at your Property.

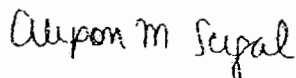
Verizon's proposed installation will protect the safety, functioning and appearance of the premises, and Verizon will bear the cost of the installation of its cable television facilities. Verizon will also indemnify the landlord for damage caused by the installation of Verizon's facilities. Verizon's policy is to work with you to arrange convenient dates for access and to reach agreement on engineering plans / designs for the Property. **Please contact Verizon's NYC FiOS Real Estate Department at (888) 364-3467 within two weeks of receipt of this letter so that we may move forward with the process of bringing FiOS to your Property and/or other properties on your block.**

If you believe that Verizon's installation of cable television facilities constitutes an undue "taking" of your Property, you may file a petition for "just compensation" with the New York State Public Service Commission under the procedures set forth in Section 228 of the New York Public Service Law and Part 898, Title 16 of the NYCRR. Please note, however, that the filing of such a petition does not delay Verizon's right to access your Property. The complete text of Section 228 may be found on the enclosed copy of the notice of Verizon's intention to survey/install/upgrade cable television facilities and service.

If we do not hear from you within two weeks as mentioned above, Verizon's Legal Department may be forced to file a Petition for Order of Entry to the New York State Public Service Commission, after which you will be afforded, per 16 NYCRR 898.4(b)(9), twenty days to answer the Petition and set forth any additional matter not contained in the Petition. The Petition will seek an order granting Verizon the right to survey for and/or install/upgrade cable television facilities and service at your Property. If you have specific legal questions about Verizon's rights under New York law or Verizon's Cable Franchise Agreement, we recommend that you engage an attorney. You may also contact Michael Morano, Assistant General Counsel for Verizon's National Operations, at (908) 559-3332 to discuss legal issues or questions, but please be advised that he represents Verizon and cannot provide you with legal advice.

Your cooperation in this matter would be greatly appreciated. We look forward to hearing from you.

Sincerely,



Alyson M. Seigal
Manager, FiOS Franchise Assurance -- New York City

NOVICK, EDELSTEIN, LUBELL, REISMAN,
WASSERMAN & LEVENTHAL, P.C.
ATTORNEYS AND COUNSELLORS AT LAW
733 YONKERS AVENUE
YONKERS, NY 10704

FAX (914) 375-0699

(914) 375-0100

I. SCOTT EDELSTEIN
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FRANCISCO RIVERA
AUTREY JOHNSON
KELLY KRUSZEWSKI

May 14, 2014

Mr. Thomas E. Miller
Area Manager
Verizon
140 West Street - Room 1105
New York, NY 10007

Re: Your correspondence dated May 6, 2014
Your property ID 8099820
1454 Walton Avenue
Bronx, NY

Dear Mr. Miller:

This office represents the owner of the referenced property and we have been asked to respond to your correspondence, also referenced.

Apparently, you are misinformed by your staff, as your correspondence to the owner's representative incorrectly claims...

"that you have not responded to our previous correspondence, that you have conditioned Verizon's access on unreasonable terms and conditions or that you have denied Verizon access to the Property."

All of the preceding is untrue.

Your staff has presented our client with something characterized as a "FIOS Construction Coordination Sheet." Further, your staff insists that our client sign the sheet, without modification. That sheet contains the following language...

Installation of Optical Network Terminals in resident's apartments require a three prong grounded outlet. If such outlet is unavailable, owner will replace problematic outlets with a grounded three-prong outlet or will allow residents to replace problematic outlets with a grounded three-prong electrical outlet.

NOVICK, EDELSTEIN, LUBELL, REISMAN,
WASSERMAN & LEVENTHAL, P.C.

It is the foregoing language that is objectionable. We refer you to the very same statute as recited in your letter, i.e., Section 228 of the New York Public Service Law, which states in pertinent part, at paragraph 1 (a) (2) that the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities.

Therefore any language pursuant to which the owner is obligated to make any installation in order to permit the cable installation is improper. Further, we suggest that our client's requirement that any electrical installation on behalf of any party be performed by a licensed electrician is not unreasonable. Accordingly, if Verizon is prepared to agree to undertake the installation of three-pronged grounded outlets at its expense or the resident's expense and agrees that it may only be performed by a licensed electrician, then the owner will be happy to provide access for the installation of the cable television facilities and to execute an appropriately modified "FIOS Construction Coordination Sheet.

Very truly,

Novick, Edelstein, Lubell, Reisman,
Wasserman & Leventhal, P. C.

By: Eugene Reisman

ER:jn