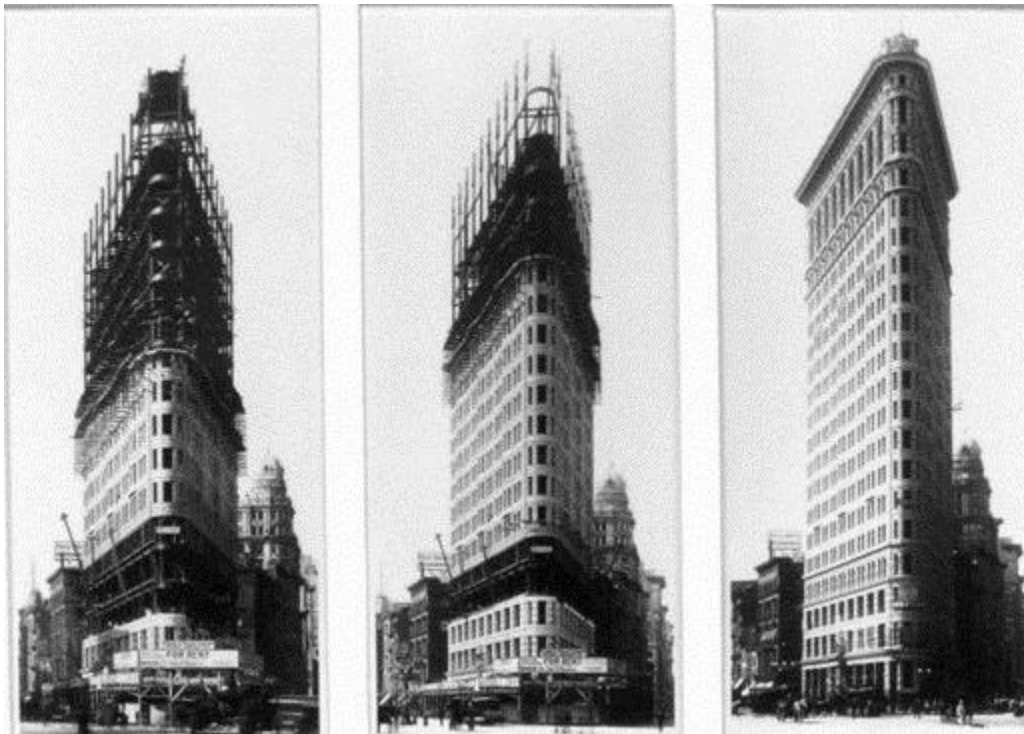




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New York City Real Estate And The 'Sliver Law' – Rosenberg & Estis Of Counsel Attorney Frank Chaney Guest Contributor

By Hallmark Abstract Service



Source: Wikipedia

This article, contributed to the Hallmark Abstract Service blog by Rosenberg & Estis, concerns one specific aspect of New York City zoning law and real estate development. Rosenberg & Estis is a law firm with a strong presence in all facets that surround the New York real estate market.

Article author and Rosenberg & Estis of counsel attorney Frank Chaney is with the firm's Transactional Department and has overseen the design, construction, and implementation of large-scale projects throughout New York and the outer boroughs including the Staten Island Ferry.

New York City And Sliver Buildings by Frank Chaney

A frequent aspect of my job as a zoning attorney in New York City is providing due diligence for clients looking for new development opportunities. A thorough zoning analysis is a must because the city's Zoning Resolution is one of, if not the most, complex zoning code in the country. When approved in 1961, it had 420 pages of text and maps, 66 total zoning districts – 13 residential, 41 commercial and 12 manufacturing – and no special districts or programs. In the more than 50 years of its existence, it has been amended over and over, hundreds of times, including hundreds of administrative corrections. It has swollen to almost 3,000 pages, 123 total zoning districts – 39 residential, 66 commercial and 18 manufacturing – with 52 special zoning districts and new zoning programs including Quality Housing, FRESH and Mandatory Inclusionary Housing.

One of those changes in 1977 was to amend the definition of a “zoning lot” to allow for mergers of adjacent properties and the transfer of unused development rights from the adjacent “air rights” lots to the development site lots. That change gave rise to a new phenomenon, that of the “sliver” building: a building built on a narrow (20-40 feet wide) lot, often merged with adjacent lots and using their unused “air rights” to rise to a height significantly taller than low-rise buildings that typically characterized the block.

In response, in an effort to ensure that new buildings were not out of character with their surroundings, the City Planning Department took its first foray into “form-based” zoning and created the “sliver law”: a provision of the Zoning Resolution that limits buildings on lots less than 45 feet wide to a height equal to the width of the street. A few years later, in 1987, the City’s Planning Department went “all in” on form-based zoning and created a wholly new zoning regime called “contextual” zoning that, where mapped, replaced the relativity of the original 1961 “sky exposure plane” height and setback rules with absolute maximums for street wall and building height, requiring new buildings to line up with neighboring buildings, thus being “contextual.”

Yet, the sliver law remains on the books, limiting the height of buildings on narrow lots even in contextual zoning districts where building heights greater than the width of the street are permitted and presumed to be appropriately contextual. There are some exceptions – e.g., where adjoining buildings are taller than the width of the street, and in certain special zoning districts such as Manhattan’s Special Midtown District – but it is still broadly applicable and therefore just one of the little-known provisions of the Zoning Resolution that I frequently must bring to the attention of clients. The sliver law is a vestigial provision that ought to be amended or even repealed – at least in contextual zoning districts – but until it is, it’s a fact of zoning life in New York City, one that clients need to know about when making their investment decisions.



Article author Frank E. Chaney joined Rosenberg & Estis, P.C. in 2014 and is of counsel with the firm’s Transactional Department. He is also an adjunct professor at NY Schack Institute of Real Estate teaching Land Use & Environmental Regulation. Mr. Chaney is an expert in zoning, land use and environmental law, having advised and represented clients on a wide range of land-use matters such as rezonings, special permits, variances, air rights transfers, zoning lot mergers and development agreements.