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MANUAL 500-2

SECTION 02.5

OCCUPANCY PERMITS

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BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS

1. Purpose

The purpose of this procedure is to ensure consistency in the review and issuance of occupancy permits on property under the jurisdiction of the New York State Thruway Authority (Authority).

2. Applicable Law and/or Guidance

New York State Public Authorities Law, Article 2, Title 9, and Article 9, Title 5-A

Thruway Real Property Management Policy (25-6-02)

Occupancy Permit Application (TA-W41337)

Occupancy and Work Permit Accommodation Guidelines (TAP-401)

Utility Occupancy Supplement (TAP-401U)

Design and Construction Requirements for Occupancies:

- General Design and Construction Requirements (TAP-421A)
- Underground Crossing of Mainline Pavement and Shoulders (TAP-421B)
- Aerial Communication and Power Line Installations (TAP-421C)
- Installations/Crossings on or Attached to Bridge Structures, Bridge Culverts, or Structural Retaining Walls (TAP-421D)
- Unencased Gas Pipelines (TAP-421E)

Fee Policy for Thruway Occupancy Permits

Executive Instruction entitled Issuing A Work Permit For Preliminary Planning Purposes In Advance Of A Contemplated Occupancy Permit Or Disposal Of Real Property

3. Introduction

The Authority is responsible for the financing, construction, reconstruction, improvement, development, maintenance and operation of the highway system known as the Thruway. In accordance with the provisions of the Authority Law, the Authority has the power to acquire and hold real property necessary for corporate purposes, and to dispose of real property not necessary for its corporate purposes or whenever the Authority Board shall determine that it is in the interest of the Authority and thus, the interest of the State. Real property transactions include, but are not limited to, acquisitions, sales, leases, grants of easement and the issuance of permits.

Occupancy permits, which are revocable on demand, provide the Authority with the greatest flexibility for managing property under its jurisdiction. Therefore, in most cases, occupancy permits are the appropriate transaction to use when the real property is needed for Authority purposes, or may be needed for Authority purposes in the future. Permits are not considered disposals under the Public Authorities Accountability Act of 2005 as amended by the Public Authorities Reform Act as there is not a transfer of an interest in the real property.

Annual fees for occupancy permits shall be based on the estimated fair market value of the property. Where a fee rate schedule, as established in the Fee Policy for Thruway Occupancy Permits (Fee Policy), is not applicable, annual fees shall be at least equal to the property's fair market value as estimated by an appraisal, except in limited circumstances where the fair market value may be estimated by other means as determined by the Office of Real Property Management (ORPM).

Where a disposal is contemplated, unless otherwise authorized by the Executive Director, no occupancy permits will be issued in advance of completion of a disposal. In addition, work permits shall not be issued in advance of an occupancy permit unless approved by the Executive Director, except in those situations when preliminary planning work such as site inspections, surveys, environmental testings or soil borings, is necessary for preparation of materials to be submitted as part of the application package. Except for preliminary planning work, when a work permit is requested in advance of an occupancy permit, the Division Permit Coordinator (DPC) should consult with ORPM prior to taking any action.

4. Procedure for Processing and Issuing an Occupancy Permit

- 4.1. Upon receipt of an inquiry for an occupancy permit for use of real property under the jurisdiction of the Authority, the Division Permit Coordinator follows SOP-TRANSACTION ANALYSIS PROCESS (500-2-02.1). The DPC provides the inquirer the OCCUPANCY PERMIT APPLICATION (TA-W41337), and advises that the OCCUPANCY AND WORK PERMIT ACCOMMODATION GUIDELINES (TAP-401) set forth the fundamental requirements for occupancy and work permits, and advises that other related documents (the UTILITY OCCUPANCY SUPPLEMENT (TAP-401U) and the DESIGN AND CONSTRUCTION REQUIREMENTS FOR OCCUPANCIES (TAP-421A-E)*) set forth additional requirements depending on the type of occupancy. The DPC evaluates the inquiry and assists the inquirer in understanding the aforementioned documents. The DPC should direct the inquirer to the Real Property page of the Authority's website (www.nysthruway.gov) to view and download these documents or can provide hardcopy upon request.

* The Specification Diagrams for TAP-421A-E can be found on the Finance and Accounts Intranet page. These diagrams are in an 11" x 17" format and require a large format printer. The DPC should either print and provide the appropriate diagram(s) to the inquirer or e-mail the pdf file(s).

- 4.2. Upon receipt of an application package (e.g., current insurance certificate with adequate coverage, surety deposit/bond, municipal resolution authorizing municipal official to sign on behalf of a municipality, application fee, and other required supporting documents), the DPC verifies that the application package is complete.

Note: The Fee Policy provides for a fee waiver under limited circumstances. If a fee waiver is requested, the DPC will consult with ORPM prior to taking any action.

- 4.2.1. If complete, the DPC enters the information and amounts into PERMITS Plus which generates the occupancy permit number.
- 4.2.2. If incomplete, the DPC either calls the applicant or sends a MISSING DOCUMENTS LETTER¹ to the applicant requesting missing information.
- 4.3. The DPC sends the application fee and surety deposit/bond to the Accounts Receivable Unit (ARU). ARU deposits the funds and notes receipt of funds in PERMITS Plus.

¹ Exhibit 1

- 4.4. The DPC obtains and makes copies of key maps and aerial photographs from GIS and other available sources and reviews them in conjunction with maps and/or plans submitted by the applicant to identify any issues. These documents should be scanned and linked to the applicant's PERMITS Plus file.
- 4.5. In consultation with ORPM, the DPC completes the THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR) form (TA-N5116) and the review and approval process will be done in accordance with SOP-TRANSACTION ANALYSIS PROCESS (500-2-02.1).
- 4.6. ORPM follows the Fee Policy to determine the annual occupancy permit fee (annual fee).
 - 4.6.1. If an appraisal is necessary to determine the fee, as indicated by ORPM on the TTAR, the DPC arranges for the Division real estate staff to conduct or coordinate an appraisal following SOP-APPRAISALS AND SURVEYS (500-2-02.2) and provide the appraised value to ORPM for review and approval prior to the issuance of the permit.
- 4.7. ORPM enters approved annual fee determination into PERMITS Plus and notifies the DPC.
- 4.8. The DPC sends an ANNUAL FEE REQUEST LETTER¹ notifying the applicant of the annual fee and requesting that it be submitted within 30 days. If the fee is not received within 30 days, the DPC sends a SECOND NOTICE FOR OCCUPANCY PERMITS². If the fee is still not received within 30 days from the second notice, the DPC sends a PERMIT CLOSURE NOTICE³ notifying the applicant that the permit application is closed and places a copy of that PERMIT CLOSURE NOTICE in the Division file. The DPC sends a copy of the letters and notices to ORPM for the Transaction Record. The DPC updates PERMITS Plus to change the status to "cancelled" to indicate that the occupancy permit process has ceased.
- 4.9. Upon receipt of the annual fee, the DPC sends the applicant a COVER LETTER⁴ with the issued permit and a receipt for the payments and fees. The DPC updates PERMITS Plus with the permit information.

¹ Exhibit 2

² Exhibit 3

³ Exhibit 4

⁴ Exhibit 5

- 4.10. The DPC sends the annual fee to ARU where the payment will be posted to PERMITS Plus.
- 4.11. ARU adds the permittee to the billing record; sets up the account for billing and thereafter sends invoices to the permittee in accordance with SOP–PERMIT AND LEASE ENFORCEMENT (500-2-02.7).
- 4.12. The DPC scans the insurance certificate into PERMITS Plus and sends the original insurance certificate to the Insurance Compliance Unit (ICU). ICU notes receipt of the insurance certificate in PERMITS Plus and creates hardcopy file. ICU monitors that coverage is maintained in accordance with SOP–PERMIT AND LEASE ENFORCEMENT (500-2-02.7). Insurance renewals are processed by ICU.

5. Contesting and Appealing the Occupancy Permit Fee

Any appeals of the permit fee will be promptly sent to the Division Director (DD) for handling in accordance with current regulations and procedures.

6. Procedure for Administering an Occupancy Permit

After an occupancy permit is issued, it is administered as follows:

- 6.1. The DPC informs the appropriate Division Program Managers of the occupancy.
- 6.2. The DPC serves as the point-of-contact for interactions with Division and Headquarters staff.
- 6.3. The DPC is responsible for the continued monitoring of the occupancy to ensure the permittee's compliance with the terms of the occupancy permit.
- 6.4. Should the DPC receive notification of any change to the permit information, the DPC consults with ORPM. Depending upon the type of change, the permittee may be required to submit a new permit application requesting an amended permit and charged the appropriate fee. The DPC updates the identification information on PERMITS Plus accordingly.
- 6.5. Should a permittee request to assign, transfer or terminate an occupancy permit, the DPC will coordinate with ORPM the processing of the request. ORPM shall consult with Legal staff prior to taking any action on the request.
- 6.6. Any violations of the occupancy permit should be addressed in accordance with SOP–PERMIT AND LEASE ENFORCEMENT (500-2-02.7) which includes guidance in emergency situations.

7. Unauthorized Use of Authority Property

When an encroachment or any other type of unauthorized use of Authority Property is identified, the DPC shall coordinate an investigation and, in consultation with ORPM, determine a course of action to appropriately resolve the issue.

8. Responsibilities

ARU posts fee payments, sets up the account for annual billing, and notes on PERMITS Plus when fees are received.

The DD coordinates any appeals of permit fees.

The DPC coordinates the review and processing of an occupancy permit application and is responsible for indicating in PERMITS Plus when the initial proof of insurance is received, forwarding proof of insurance to ICU, and forwarding all surety deposits/bonds and fees to ARU. The DPC completes the TTAR in accordance with SOP-TRANSACTION ANALYSIS PROCESS (500-2-02.1).

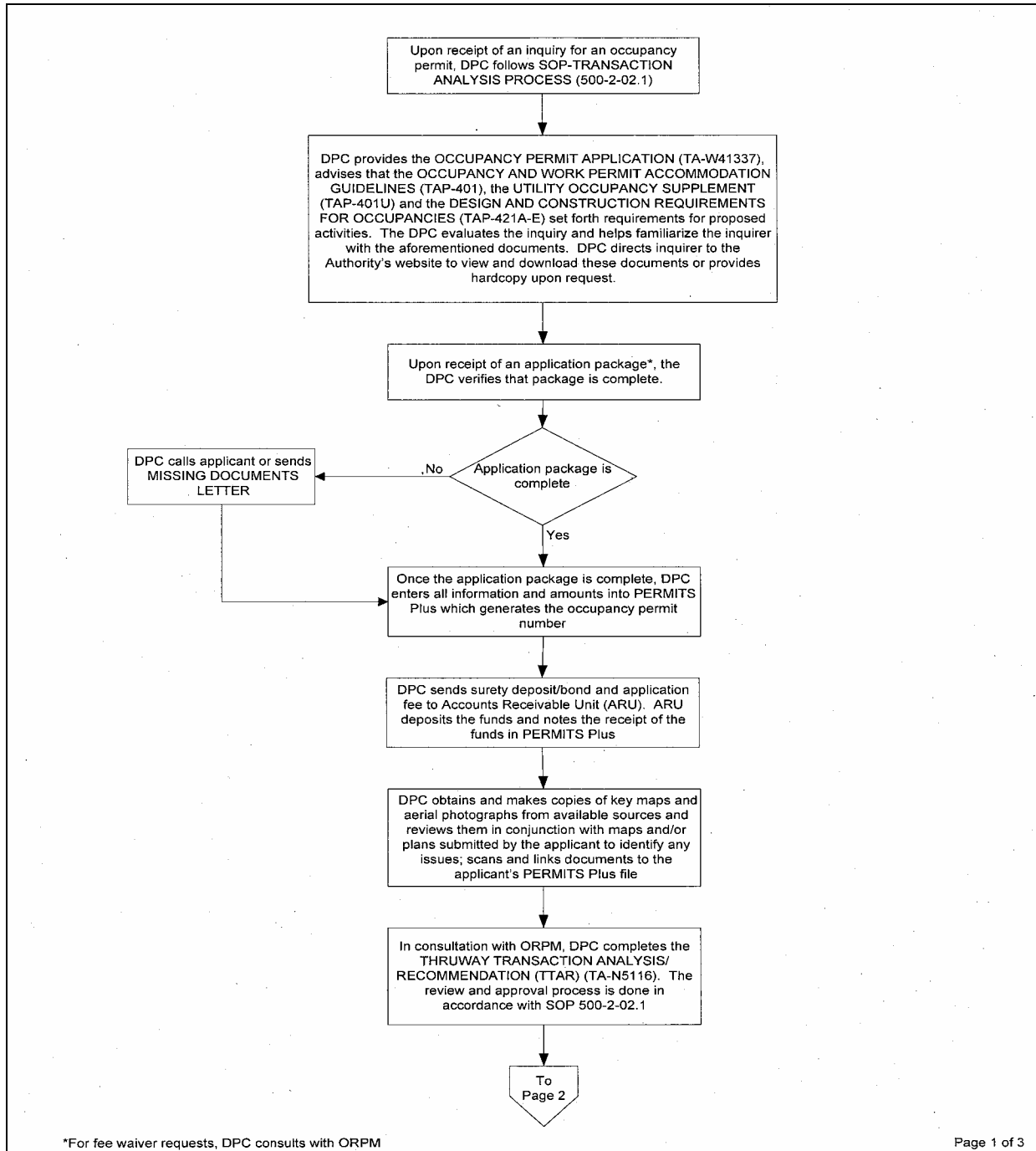
The DPC progresses the transaction and issues the occupancy permit. The DPC administers the occupancy permit including: informing appropriate Division Program Managers of the permit; serving as point-of-contact; monitoring the occupancy to ensure that the permittee meets the occupancy permit terms and conditions; and addressing and consulting/coordinating with ORPM on any violations, assignments, transfers, terminations, changes, etc.

Division real estate staff will conduct or coordinate the appraisal process to determine occupancy permit annual fees, if required, in accordance with SOP-APPRAISALS AND SURVEYS (500-2-02.2).

ICU monitors that insurance coverage is maintained in accordance with SOP – PERMIT AND LEASE ENFORCEMENT (500-2-02.7) and notes receipt of updated insurance certificates in PERMITS Plus.

ORPM determines/approves the annual fee.

9. Flowchart



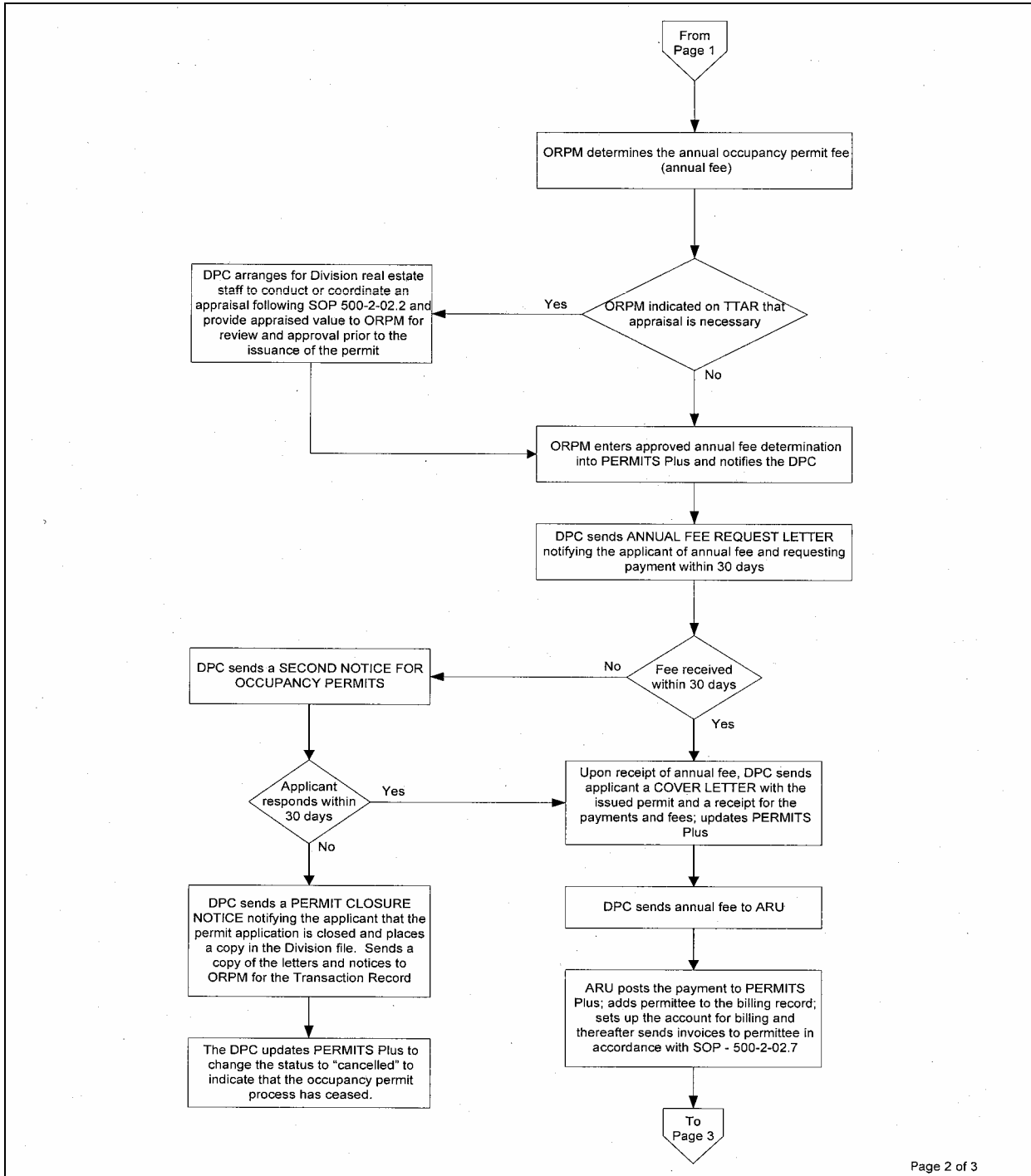
*For fee waiver requests, DPC consults with ORPM

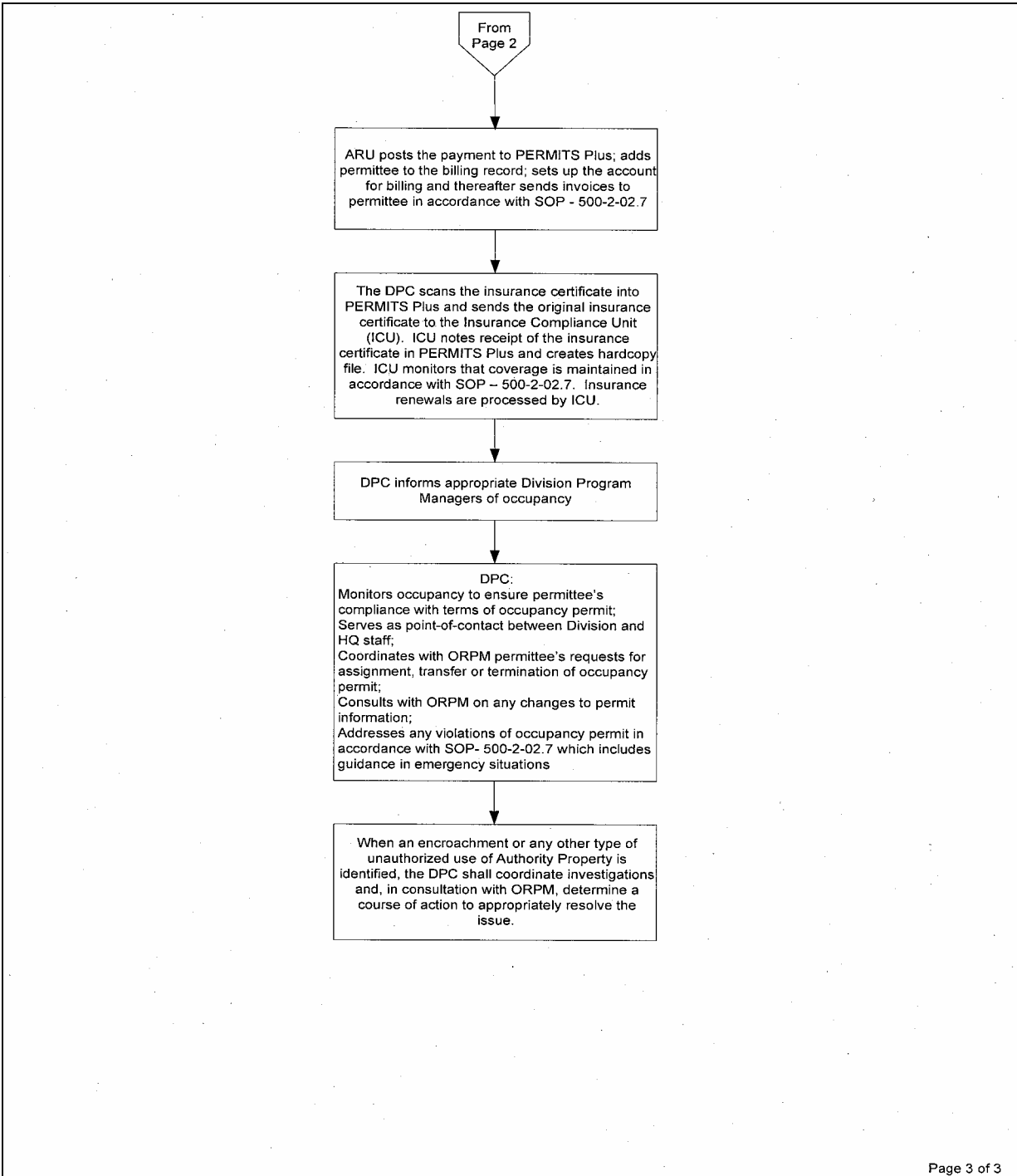
OCCUPANCY PERMITS

March 2010

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**EXHIBIT 1
MISSING DOCUMENTS LETTER**

This letter will be sent to an applicant when information is missing from the application.

<insert date>

<insert name of applicant>
<insert address of applicant>

Re: **<insert location and description of property>**
Occupancy Permit Number: **<insert Occupancy Permit Number>**

Dear **<insert name of applicant>**:

Thank you for your interest in the property at the above referenced location. Your application cannot be progressed until we receive the following missing documents:

<Insert appropriate text based on the documents that are missing>

Please send documents to:

<insert name>
<insert title>
<insert address>

Failure to send these required documents will result in your application being rejected.

Should you have any questions, I can be reached at **<insert phone number>**.

Sincerely,

<insert Title>
<insert Department name>
<insert Division name>
New York State Thruway Authority

March 2010

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EXHIBIT 2
ANNUAL FEE REQUEST LETTER

This letter will be sent to the applicant requesting the first year's annual fee.

<insert date>

<insert name of permittee>
<insert address of permittee>

Re: Annual Fee for <insert Occupancy Permit Number>
<insert location of property>

Dear <insert name of permittee>:

The annual fee for the occupancy permit referenced above is <insert amount >.
Please send a check payable to the NYS Thruway Authority to the following address:

< insert Division name and address >

The Occupancy Permit Number noted above, **must** be placed on the front of your check. Upon receipt of your payment, you will be sent a copy of your valid permit for your files.

If you have any questions, you may reach me at <insert phone number>.

Sincerely,

<insert Title>
<insert Department name>
<insert Division name>
New York Thruway Authority

March 2010

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EXHIBIT 3
SECOND NOTICE FOR OCCUPANCY PERMITS

This letter will be sent to an applicant that has failed to respond to the ANNUAL FEE REQUEST in Exhibit 2.

<insert date>

<insert name of permittee>
<insert address of permittee>

Re: Annual Fee for <insert Occupancy Permit Number>
<insert location of property>

Dear <insert name of permittee>:

Our letter dated <insert date> (copy attached), requested that you submit the annual fee for your occupancy permit. Please send a check payable to the NYS Thruway Authority to the following address:

< insert Division name and address >

The Occupancy Permit Number noted above, **must** be placed on the front of your check.

Unless we receive the annual fee by <insert date>, we will assume that you are no longer interested in obtaining this permit. Should you decide to again pursue occupancy of this parcel in the future, you will be required to file for a new permit and pay any applicable fees.

If you have any questions, you may reach me at <insert phone number>.

Sincerely,

<insert Title>
<insert Department name>
<insert Division name>
New York State Thruway Authority

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**EXHIBIT 4
PERMIT CLOSURE NOTICE**

This letter would be sent to an applicant who failed to respond to a second notice regarding closure of the pending permit application.

<insert date>

**<insert name of permittee>
<insert address of permittee>**

**Re: Annual Fee for <insert Occupancy Permit Number>
<insert location of property>**

Dear <insert name of permittee>:

Our letter dated **<insert date>** and a second letter dated **<insert date>** requested that you submit the annual fee for your occupancy permit.

Since we have not received payment from you, this letter is to advise you that we consider your application closed.

Should you decide to again pursue occupancy of this parcel in the future, you will be required to file for a new permit and pay any applicable fees.

If you have any questions, you may reach me at **<insert phone number>**.

Sincerely,

**<insert Title>
<insert Department name>
<insert Division name>**

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**EXHIBIT 5
COVER LETTER**

This is the cover letter sent to the applicant for the approved permit.

<insert date>

**<insert name of permittee>
<insert address of permittee>**

**Re: <insert Occupancy Permit Number>
<insert location of property>**

Dear <insert name of permittee>:

The New York State Thruway Authority has completed its processing of your Occupancy Permit application, which acknowledges your request to: **<insert description>**. A copy of the approved permit is enclosed for your files.

It will be necessary for you to submit insurance renewals to:

New York State Thruway Authority
Insurance Compliance Unit
PO Box 189
Albany, NY 12201-0189

If you have any questions, you may reach me at **<insert phone number>**.

Sincerely,

**<insert Title>
<insert Department name>
<insert Division name>
New York Thruway Authority**

cc: Insurance Compliance Unit