# **EXHIBIT 2**

Property No. 9315449-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9315449-1 Hanna Goldberg Argus Realty 4600 LLC 1314 Ocean Pkwy. , Apt. 1B Brooklyn, NY 11230-5622

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 4600 9 Av, Brooklyn 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 **4600 9 Av**, **Brooklyn 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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: Argus Realty 4600 Llc

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 4600 9 Av, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: \_\_\_\_April 7, 2015\_\_\_\_

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

### §898.4 Right of Entry

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

(a) If the commission finds that just compensation for the installation of cable

order which sets compensation at one dollar or less, file a written request for a

hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission

§898.9 Hearing and determination

Property No. 9323297-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9323297-1 Jacob Greenwald Park Management 571 East New York Avenue A Brooklyn, NY 11225-4593

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 769 St Marks Av, Brooklyn 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 **769 St Marks Av, Brooklyn 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,

alupon M. Scipal

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

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An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

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The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and the measures to be taken to minimize the aesthetic impact of the installation; and (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space: Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

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hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Subchapter A of this Title.

Property No. 9323298-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9323298-1 Yonah Hilpon 777 St. Marks Realty LLC 829 Greenwood Avenue, Apt 1C Brooklyn, NY 11218-1349

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 777 St Marks Av, Brooklyn 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 **777 St Marks Av, Brooklyn 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.

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

Sincerely,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 777 St Marks Av, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9323408-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9323408-1 James Dimitriades Meridian Properties, LLC 310 85th Street, Suite #A2 Brooklyn, NY 11209-4611

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 720 St Marks Av, Brooklyn 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 **720 St Marks Av, Brooklyn 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,

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

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DATED: <u>April 22, 2015</u>

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(6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9323525-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9323525-1 William Goodard SMRC Management LLC 80 Maiden Lane, Suite #2204 New York, NY 10038-4815

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 919 Park PI, Brooklyn 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 **919 Park PI, Brooklyn 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,

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

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DATED: <u>April 22, 2015</u>

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(6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9324136-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9324136-1 Troy Blount 5580 Realty LLC 438 Kingston Avenue Brooklyn, NY 11225-4602

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 580 Empire Blvd, Brooklyn 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 **580 Empire Blvd, Brooklyn 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,

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 580 Empire Blvd, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9324563-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9324563-1 Samuel Charles Clean Realty LLC 438 Kingston Avenue Brooklyn, NY 11225-4602

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 899 Montgomery, Brooklyn 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 **899 Montgomery, Brooklyn 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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 899 Montgomery, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9326892-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9326892-1 Ivette Alerte St. Nicks Alliance 2 Kingsland Avenue, 2nd Floor Brooklyn, NY 11211-1695

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 270 Pulaski, Brooklyn 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 **270 Pulaski, Brooklyn 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,

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 270 Pulaski, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: \_\_\_\_April 7, 2015\_\_\_\_

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title.

Property No. 9335277-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9335277-1 Daniel Rivera People's Firehouse 113 Berry Street Brooklyn, NY 11249-2804

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 270 Bedford Av, Brooklyn 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 **270 Bedford Av, Brooklyn 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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 270 Bedford Av, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9340831-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9340831-1 Michael Bluth Dada Maya Inc. 4309 13th Avenue Brooklyn, NY 11219-1337

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 35 E 94, Brooklyn 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 **35 E 94, Brooklyn 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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 35 E 94, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9342668-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9342668-1 Joseph Hertz Ocean Empire Management 328 St. Marks Avenue Brooklyn, NY 11238-3604

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 99 Ocean Av, Brooklyn 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 **99 Ocean Av, Brooklyn 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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: 99 Ocean Empire Llc

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 99 Ocean Av, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

### §898.4 Right of Entry

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

(a) If the commission finds that just compensation for the installation of cable

order which sets compensation at one dollar or less, file a written request for a

hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission

§898.9 Hearing and determination

Property No. 9342949-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9342949-1 Michael Cantor Emcee Management 7401 Ridge Boulevard, Suite #1B Brooklyn, NY 11209-2357

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 181 Lenox Rd, Brooklyn 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 **181 Lenox Rd, Brooklyn 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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 181 Lenox Rd, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9342956-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9342956-1 Barry Hers Clark Associates Inc 1268 52nd Street, #S1 Brooklyn, NY 11219-3841

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 250 Clarkson Av, Brooklyn 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 **250 Clarkson Av, Brooklyn 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,

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 250 Clarkson Av, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9342957-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9342957-1 Barry Hers Clerk Associates Inc. 1268 52nd Street Brooklyn, NY 11219-3875

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 270 Clarkson Av, Brooklyn 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 **270 Clarkson Av, Brooklyn 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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 270 Clarkson Av, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

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Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9343205-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343205-1 William Goddard SMRC Management LLC 80 Maiden Lane, Suite #2204 New York, NY 10038-4815

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 39 Turner PI, Brooklyn 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 **39 Turner PI, Brooklyn 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.

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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 39 Turner PI, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: \_\_\_\_April 7, 2015\_\_\_\_

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Subchapter A of this Title.

on the issue.

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9343211-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343211-1 James Dimitriades Meridian Properties, LLC 310 85th Street, Suite A2 Brooklyn, NY 11209-4611

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 200 E 17, Brooklyn 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 **200 E 17**, **Brooklyn 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.

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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 200 E 17, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Subchapter A of this Title.

on the issue.

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9343325-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343325-1 Jacob Kempler JK Management Corp 303 Beverly Road, Pr 2 Brooklyn, NY 11218-3137

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 755 Ocean Av, Brooklyn 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 **755 Ocean Av, Brooklyn 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.

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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 755 Ocean Av, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

# Property No. 9343355-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343355-1 Ivan Leist I.L. Realty LLC 3857 Kings Highway, #1C Brooklyn, NY 11234-2921

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 380 E 18, Brooklyn 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 **380 E 18**, **Brooklyn 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.

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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 380 E 18, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9343366-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343366-1 Arnold Marshel Hampton House Company LP 1500 Paerdegat Ave. Brooklyn, NY 11236-4100

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 1801 Dorchester Rd, Brooklyn 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 **1801 Dorchester Rd**, **Brooklyn 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.

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,

allipon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 1801 Dorchester Rd, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

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No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9343383-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343383-1 Isaac Stern 26 Court Street, #304 Brooklyn, NY 11242-1133

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 460 E 21, Brooklyn 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 **460 E 21**, **Brooklyn 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.

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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: Rush 21 Realty Llc

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 460 E 21, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: \_\_\_\_April 7, 2015\_\_\_\_

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

#### §898.4 Right of Entry

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

(a) If the commission finds that just compensation for the installation of cable

order which sets compensation at one dollar or less, file a written request for a

hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission

§898.9 Hearing and determination

# Property No. 9343513-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343513-1 Duane Almodovar Proto Property Services 3601A Fieldston Road Bronx, NY 10463-2003

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 600 E 21, Brooklyn 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 **600 E 21**, **Brooklyn 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.

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,

alupon M. Scipal

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

# NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 600 E 21, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue. Property No. 9343708-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343708-1 Joseph Spitzer Allstale Realty Assoc. 5420 13 Avenue Brooklyn, NY 11219-4127

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 310 Beverly Rd, Brooklyn 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 **310 Beverly Rd, Brooklyn 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.

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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 310 Beverly Rd, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Property No. 9343775-1



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

April 7, 2015

# VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343775-1 Lowell Goldberg Jonas Equities Inc. 725 Church Ave. Brooklyn, NY 11218-3305

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 465 E 7, Brooklyn 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 **465 E 7**, **Brooklyn 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.

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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 465 E 7, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

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DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. 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(6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

# Property No. 9343812-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9343812-1 Mordechai Eissenberg Newport Management 5614 15th Ave , Apt. 1A Brooklyn, NY 11219-4722

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 800 Cortelyou Rd, Brooklyn 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 **800 Cortelyou Rd**, **Brooklyn 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.

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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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: 800 Cortelyou Owner S Cp

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 800 Cortelyou Rd, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

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DATED: <u>April 7, 2015</u>

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Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

### §898.4 Right of Entry

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

(a) If the commission finds that just compensation for the installation of cable

order which sets compensation at one dollar or less, file a written request for a

hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission

§898.9 Hearing and determination

Property No. 9344283-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9344283-1 Susan Sahim SKS Enterprises LLC 347 5th Avenue, Suite 910 New York, NY 10016-5029

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 864 60, Brooklyn 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 **864 60**, **Brooklyn 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.

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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 864 60, Brooklyn NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9346437-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9346437-1 Penny Priceman Lang Development Corp. 9707 4th Avenue, Suite 1G Brooklyn, NY 11209-8136

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 515 Ovington Av, Brooklyn 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 **515 Ovington Av, Brooklyn 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.

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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 515 Ovington Av, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: \_\_\_\_April 7, 2015\_\_\_\_

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. 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If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. 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The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

Property No. 9352477-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9352477-1 Adi Joseph Bay Parkway Holdings 1301 Cornaga Avenue D Far Rockaway, NY 11691-5004

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 8020 Bay Pkwy, Brooklyn 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 **8020 Bay Pkwy, Brooklyn 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.

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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: Bay Parkway Holdings Llc

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 8020 Bay Pkwy, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

### §898.4 Right of Entry

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

(a) If the commission finds that just compensation for the installation of cable

order which sets compensation at one dollar or less, file a written request for a

hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission

§898.9 Hearing and determination

Property No. 9358900-1



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

October 2, 2014

## VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED AND FIRST CLASS MAIL

Property ID: 9358900-1 649 Second Avenue Owners Corp. 649 2nd Avenue New York, NY 10016-4201

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 649 2 Av, New York 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 **649 2 Av**, **New York 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.

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,

allipon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 649 2 Av, New York NY. The inspection will be performed on or about November 3, 2014. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

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DATED: October 2, 2014

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<ul> <li>Isnant or other occupant of such building to use or avail himself of master or individual antenne equipment.</li> <li>Isnant or other occupant of such building to use or avail himself of master or individual antenne equipment.</li> <li>Istewart as provided in section 898.2 of this Part no landord shall demand or accept any payment from any cable television company in exchange for privat companison.</li> <li>Isseart as provided in section 898.2 of this Part no landord shall demand or accept any payment from any cable television company in exchange for privat or premises.</li> <li>Isseart as provided in section 898.2 of this Part no landord shall demand or accept any payment from any cable television company in exchange for privaty taking be article to the payment of just compensation for just compensation and inscordance with section 220 (b) of the payment of just compensation shall be article to the payment of just compensation for just compensation and private or facilities upont be projectly to a landord may be achieved or the installation.</li> <li>Isseart as provided in accertance with section 220 (b) of the payment of just compensation shall be from sub order accepted by the commission and address of the landord may inscribe television company proposing to install cable television service or facilities upont be property or landord shall be recomparised and ord installation.</li> <li>(b) The secretary of the commission tail andord.</li> <li>(c) The secretary of the commission and address of the landord may is cable television company. If and address of the landord may is cable television company (b) is thereof at least is address and the commission and address of the landord may is achieved to achieve thereof at least is address of the landord may is achieved to achieve thereof at least is address of the landord may is achieved to achieve thereof at least is address of the landord may is achieved to achieved to a section of the section and address of the landord may is achieved tor achieved to achi</li></ul>		
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<ul> <li>New YORK CODES RULES AND REGULATIONS – PART 886 – LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law 5228(1)</li> <li>§88.1 Prohibition</li> <li>Except as provided in section 898.2 of this Part no landlord shall demand or accept any payment from any cable television company in exchange for permitting cable television service or facilities on or within said landlord's property taken 2016 to the payment of just compensation of the installation of the insthe installation of th</li></ul>	individual antenna equipment.	
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<ul> <li>A landiord may file with the commission an application for just compensation within four months following the service by the cable television company or the installation of the section \$98.3 of this Part or within four months following the service by the cable television company or the installation of the section \$98.3 of this Part or within four months following the service by the cable television company or the installation of the section \$98.3 of this Part or within four months following the section \$98.3 of this Part or within four months following the service by a cable television company for the installation of cable television for just compensation An application for just compensation of an application for just compensation. Such facts relevant to the determination of just compensation. Such facts relevant to the determination of fust compensation. Such facts relevant to the determination of fust compensation. Such facts relevant to the installation of the septicant's property before the installation of the septicant's property before the installation of cable television company in proposing to install cable television facts relevant to the installation of application or methods used to determine such values. The secretary may upor good cause shown permit the filing of supplemental information at any time prior to final determination of is avain the service or facilities and the value of the application for just compensation and upon to section 280 of the rabits for such installation.</li> <li>(f) The secretary of the commission and and and shall be served an and address of the linkel television company is all the serve or analytic and the form and cacher service or the application of equipment has been completed may be served and and store serve or the installation of eace interview of the installation of a such installation and (i) the eapproximate date of the installation and (i) the approximate date of the installation and (i) the application in the municipality in which the relay property i</li></ul>		
<ul> <li>§88.1 Prohibition</li> <li>§88.1 Prohibition</li> <li>Except as provided in section \$89.2 of this Part no landlord shall demand of accept any payment from any cable television company in exchange for property and ord shall be television company in exchange for property accept or premises.</li> <li>§88.8 2 Just Compensation</li> <li>§88.8 2 Just Compensation for Every landord shall be entitled to the payment of just compensation for just compensation in accordance with section 220 (1)(b) of the every cable television in accordance with section 220 (1)(b) of the Public Service Law upon application for just 2000 (1) and amount of just compensation shall be determined to a stroke or facilities upon the property of a landord shall be television shall prescribe the procedure for service of finstallation (2) the commission shall prescribe the procedure for service of actilities upon the installation and (vi) to the commensement of such install.</li> <li>(b) The secretary of the commission shall prescribe the procedure for service of actilities and the installation and (vi) to tacta should include for just compensation shall be served on facilities and the installation and (vi) to active and decrems of such installation and (vi) the name and address of the cable television company (ii) the approximate date of the installation and (vi) a clation of section 226 of the Public Service Law and Part 896 of the commission fall prescribe the procedure of the security of the commission fall prescribe the procedure or the service of the application for just compensation shall be a served and the installation and (vi) a clation of sequences of the cable television company shall be served and the service of the application service or fall the installation and (vi) a clation of section 226 of the Public Service Law and Part 896 of the commission fall determination of application for the security of the commission fall of the public Service Law and Part 898 of the commission fall and ord or the seffective date of this Part.</li></ul>	Law §228(1)	
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<ul> <li>accept any payment from any cable television company in exchange for property active or facilities on or within said landord's property active or facilities on or within said landord's property active or facilities on the payment of just compensation for just compensation.</li> <li>Systep landord shall be entitled to the payment of just compensation for property taken by a cable television company for the installation of cable determination of just compensation. Such facts relevant to the determination of just compensation. Such facts relevant to the determination of just compensation is concerned to a subicity of the provide state should include but need not be limited to a showing of.</li> <li>(a) the provide state should include but need not be limited to a showing of.</li> <li>(b) The secretary of the commission shall prescribe the procedure for service of facilities and the rolice of the installation and (i) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the name and address of the cable television company (fi) the application of such ordice which shall include for installation of equipment has been completed may be served an and therakery cable television service or facilities and the splication if any shall be served on all parties and on the commission fuels.</li> <li>(b) The anne and address of the cable television company and the splication if the purpose of analysis performed the installation of eable television company and the application if the splication is a section 216(3) of the purpose of analysis performed the secure or facilities and the cable television company and the application may be inexcess of one coller it shall conduct a h</li></ul>	8	
<ul> <li>permitting cable television service or facilities on or within said landiord's property or premises.</li> <li>§988.2 Just Compensation</li> <li>Every landiord shall be entitled to the payment of just compensation for property taken by a cable television company for the installation of cable television exceeded to the payment of just compensation. Such facts should include but need not be limited to a showing of television company proposing to install cable television every cable television company proposing to install cable television every cable television company proposing to install cable television every cable television company proposing to install cable television every cable television company proposing to install cable television every cable television company proposing to install cable television every cable television company proposing to install cable television facilities and</li> <li>(a) Every cable television company proposing to install cable television every cable television company proposing to install cable television facilities and</li> <li>(b) The source of facilities upon the property of a landford shall serve upon said landford or mathods used to determine such values. The secretary may upor obsect of such notice of intent threefor at least 15 days prior to the commission shall prescribe the procedure for service of facilities and dadress of the cable television company (ii) the name and address of the cable television company (iii) the approximate date of the installation and (vi) a citation of section 226 of the Public Service Law and Part 898 of the landlord (iii) the approximate date of the installation and (vi) a citation of section 228 of the Public Service Law and Part 898 of the landlord for the publication.</li> <li>(b) The secretary of the company shall have the right to enter property of the landford or an authorized agent which notice shall containt to section 160.2 The Public Service Law and Part 898 of the landford or an authorized agent which notice shall containt t</li></ul>		
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<ul> <li>§888.2 Just Compensation</li> <li>Every land/ord shall be entitled to the payment of just compensation for properly taken by a cable television company for the installation of cable television service or facilities. The amount of just compensation shall be determined by the commission in accordance with section 288 (1) of the Public Service Law upon application by the landlord pursuant to section 210 (1) of the previous use of such space</li> <li>(c) The server targ of the commission company proposing to install cable television service or facilities upon the property of a land/ord shall serve upon said land/or an authorized agent written notice of intent thereof at least 15 days prior to the commission all prescribe the procedure for service of such notice and the form and content of such notice which shall include but need not be limited to</li> <li>(i) The name and address of the cable television company (ii) the name and address of the cable television company (iii) the name and address of the cable television company (iii) the approximate date of the installation and (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission's rules.</li> <li>(c) A table television company shall have the right to enter property of the landlord or an authorized agent which notice shall contain the date of the installation and (iv) a citation of section 228 of the Public Service and the form?</li> <li>(g) A cable television company shall have the right to enter property of the landlord or an authorized agent which notice shall contain the date of the installation of cable television company shall be liable to the landlord for the purpose of making surveys or other investigations preparatory of the caplication field by the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law.</li> <li>(b) A cable television company shall be liable to the landlord for the purpose of making surveys or other investigations preparatory of the caplication the cable television</li></ul>	property of premises.	
<ul> <li>Every landlord shall be entitled to the payment of just compensation for property taken by a cable television company for the installation of cable television service or facilities. The amount of just compensation shall be determined by the commission in accordance with section 228 (1)(b) of the public Service Law upon application by the landlord or shall be entitled to a splicati's property before the installation of cable television company proposing to install cable television at any time service or facilities upon the property of a landlord shall serve upon said landlord or an authorized agent written notice of intent thereof at least 15 days prior to the commensement of such notice which shall include but need not be limited to:</li> <li>(b) The secretary of the commission shall prescribe the procedure for service of facilities and address of the landlord (i) the anme and address of the landlord (ii) the anme and address of the cable television company (iii) the anme and address of the cable television company (iii) the approximate date of the installation and (iv) a cattation of secure 228 of the Public Service Law and Part 898 of the commission situliation of cable television reservice or facilities were placed prior to the effective date of this Part.</li> <li>§898.4 Right of Entry</li> <li>(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the scribe and bacefines and and off the purpose of making surveys or other investigations preparatory of the installation of acable television company shall be liable to the landlord for any dail other information described in section 893 (b) of this Part.</li> <li>§898.4 Right of Entry</li> <li>(a) A cable television company shall be liable to the landlord for any dam deter information described in section 893 (b) of this Part.</li> <li>§98.4 Right of Entry</li> <li>(b) A cable television company shall be liable to the landlord for any dam deter info</li></ul>	8898.2 Just Compensation	
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228(1)(a)(3) of the Public Service Law.		

Property No. 9359717-1



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

April 22, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9359717-1 Theresa Veltri Veltri Realty Management 27 West 70th Street, Apt 2A New York, NY 10023-4548

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 143 W 75, New York 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 **143 W 75**, **New York 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.

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,

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 143 W 75, New York NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

# Property No. 9401834-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9401834-1 Robert Malek 1491 Coney Island Avenue Brooklyn, NY 11230-4736

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 400 Ocean Av, Brooklyn 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 **400 Ocean Av, Brooklyn 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,

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 400 Ocean Av, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

# Property No. 9401864-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9401864-1 David Malek Malek Management 1491 Coney Island Avenue Brooklyn, NY 11230-4737

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 470 Ocean Pkwy, Brooklyn 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 **470 Ocean Pkwy, Brooklyn 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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 470 Ocean Pkwy, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

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THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. 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Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a landlord for the purpose of making surveys or other investigations preparatory hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

# Property No. 9407197-1



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

March 6, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9407197-1 Pong Cho Kong Halmoni Realty Corp 244 Fifth Avenue New York, NY 10001-7604

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 562 W 144, New York 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 **562 W 144**, **New York 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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: Halmoni Realty Corp

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 562 W 144, New York NY. The inspection will be performed on or about March 20, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>March 6, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or (a) If the commission finds that just

(a) If the commission finds that just compensation for the installation of cable television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law.
(b) An applicant may, within 20 days from the release date of the commission order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I, Subchapter A of this Title.

(c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

228(1)(a)(3) of the Public Service Law.

§898.4 Right of Entry

facilities were placed prior to the effective date of this Part.

(a) A cable television company shall have the right to enter property of the

date of entry and all other information described in section 893.3(b) of this

Part. The cable television company shall be liable to the landlord for any

damages caused by such entry but such damages shall not duplicate

damages paid by the cable television company pursuant to section

landlord for the purpose of making surveys or other investigations preparatory

to the installation. Before such entry, the cable television company shall serve

notice upon the landlord, or an authorized agent which notice shall contain the

Property No. 9407861-1



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

March 6, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9407861-1 Simon Roseman Nagle 184 LLC 1 Hillcrest Center Drive, Suite 230 Spring Valley, NY 10977-3752

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 184 Nagle Av, New York 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 **184 Nagle Av, New York 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,

alupon M. Scipal

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

cc (via U.S. mail): Owner: Nagle 184 Llc

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 184 Nagle Av, New York NY. The inspection will be performed on or about March 20, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>March 6, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

#### §898.4 Right of Entry

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

(a) If the commission finds that just compensation for the installation of cable

order which sets compensation at one dollar or less, file a written request for a

hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission

§898.9 Hearing and determination

Property No. 9407949-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9407949-1 Augustino Cafone MN Urban 207 LLC 234 W 147th Street New York, NY 10039-3614

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 616 W 207, New York 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 **616 W 207, New York 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,

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 616 W 207, New York NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

Subchapter A of this Title. (c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

# Property No. 10102804-1



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

April 7, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 10102804-1 Josh Allen Wonko Realty Corp. 9601 Shore Road Brooklyn, NY 11209-7651

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 120 96, Brooklyn 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 **120 96**, **Brooklyn 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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 120 96, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

#### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

# Property No. 11114237-1



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

April 22, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 11114237-1 Ron Wong Jan Jan Realty Corp 1626 Park Ave, Flr 4 New Hyde Park, NY 11040-4325

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 207 Dyckman, New York 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 **207 Dyckman, New York 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,

alupon M. Scipal

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

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 207 Dyckman, New York NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

# Property No. 13210741-1



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

April 7, 2015

## VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 13210741-1 Peter Pantelic Halstead Management Company, LLC 770 Lexington Avenue New York, NY 10065-8193

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 2250 83, Brooklyn 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 **2250 83**, **Brooklyn 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,

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

## NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 2250 83, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

# Property No. 13253628-1



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

April 7, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 13253628-1 Edith Fried B&T Realty LLC 1841 58th Street Brooklyn, NY 11204-2058

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 58 Kermit PI, Brooklyn 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 **58 Kermit PI, Brooklyn 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,

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

## NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 58 Kermit PI, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: \_\_\_\_April 7, 2015\_\_\_\_

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

# Property No. 13254326-1



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

April 7, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 13254326-1 Isaac Feldberg G.M.G Realty Corp. 1225 Ocean Parkway Brooklyn, NY 11230-5154

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 279 Ocean Pkwy, Brooklyn 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 **279 Ocean Pkwy, Brooklyn 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,

alupon M. Scipal

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

## NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 279 Ocean Pkwy, Brooklyn NY. The inspection will be performed on or about April 22, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 7, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord; (b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, individual antenna equipment. schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules. (c) Notice that installation of equipment has been completed may be served at §898.9 Hearing and determination any time on landlords upon whose property cable television service or (a) If the commission finds that just compensation for the installation of cable facilities were placed prior to the effective date of this Part. television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law. (b) An applicant may, within 20 days from the release date of the commission §898.4 Right of Entry (a) A cable television company shall have the right to enter property of the order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a

hearing pursuant to section 216(3) of the Public Service Law and Chapter I,

(c) If after the filing of an application, the cable television company and the

applicant agree upon the amount of just compensation and the commission

approves such amount, the commission shall not be required to conduct a hearing

Subchapter A of this Title.

on the issue.

(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.

# Property No. 14318782-1



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

April 22, 2015

### VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 14318782-1 Ata Yavalar FirstService Residential New York Inc. 622 Third Avenue , 14 Fl New York, NY 10017-6707

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at: 99-32 66 Rd, Queens 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 **99-32 66 Rd, Queens 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,

alupon M. Scipal

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

cc (via U.S. mail): Board President: Elsie Stark

## NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 99-32 66 Rd, Queens NY. The inspection will be performed on or about May 6, 2015. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade conforms with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at <u>secretary@dps.ny.gov</u> or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: <u>April 22, 2015</u>

### PUBLIC SERVICE LAW (b) where the installation of cable television service or facilities is not effected §228. Landlord-tenant relationship pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an 1. No landlord shall (a) interfere with the installation of cable television authorized officer of the cable television company setting forth: facilities upon his property or premises, except that a landlord may require: (1) that the installation of cable television facilities conform to such (1) proof of service of a notice of intent to install cable television service upon the reasonable conditions are necessary to protect the safety, functioning and landlord; appearance of the premises, and the convenience and well being of other (2) the specific location of the real property; tenants: (3) the resident address of the landlord, if known; (2) that the cable television company or the tenant or a combination thereof (4) a description of the facilities and equipment to be installed upon the property, bear the entire cost of the installation, operation or removal of such facilities; including the type and method of installation, the anticipated costs thereof, and and the measures to be taken to minimize the aesthetic impact of the installation; (3) that the cable television company agree to indemnify the landlord for (5) the name of the individual or officer responsible for the actual installation; any damage caused by the installation, operation or removal of such facilities. (6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of (b) demand or accept payment from any tenant, in any form, in exchange for insurance or other evidence of ability to indemnify the landlord; permitting cable television service on or within his property or premises, or (7) a statement that the installation shall be conducted without prejudice to the from any cable television company in exchange therefore in excess of any rights of the landlord to just compensation in accordance with section 898.2 of this amount which the Commission shall, by regulation, determine to be Part: reasonable: or (8) a summary of efforts by the cable television company to effect entry of the property for installation; and (c) Discriminate in rental charges or otherwise, between tenants who receive (9) a statement that the landlord is afforded the opportunity to answer the petition cable television service and those who do not. within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. 2. Rental agreements and leases executed prior to January first, nineteen Participation by the landlord is not mandatory, however, if no appearance by the hundred seventy-three may be enforced notwithstanding this section. landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of 3. No cable television company may enter into any agreement with the entry which order shall constitute a ruling that the petitioning cable television owners, lessees or persons controlling or managing buildings served by a company has complied with requirements of section 228 of the Public Service cable television company, or do or permit any act, that would have the effect, Law and the regulations contained in this Part. If the landlord files a written directly or indirectly of diminishing or interfering with existing rights of any answer to the petition, the cable television company shall have 10 days within tenant or other occupant of such building to use or avail himself of master or which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or individual antenna equipment. direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service NEW YORK CODES RULES AND REGULATIONS - PART 898 -Law. LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1) §898.5 Application for just compensation A landlord may file with the commission an application for just compensation §898.1 Prohibition within four months following the service by the cable television company of the Except as provided in section 898.2 of this Part, no landlord shall demand or notice described in section 898.3 of this Part or within four months following the accept any payment from any cable television company in exchange for completion of the installation of the cable television facilities, whichever is later. permitting cable television service or facilities on or within said landlord's §898.6 Contents of application for just compensation property or premises. An application for just compensation shall set forth specific facts relevant to the §898.2 Just Compensation determination of just compensation. Such facts relevant to the determination of Every landlord shall be entitled to the payment of just compensation for just compensation. Such facts should include, but need not be limited to, a property taken by a cable television company for the installation of cable showing of: television service or facilities. The amount of just compensation shall be (a) the location and amount of space occupied by the installation; determined by the commission in accordance with section 228 (1)(b) of the (b) the previous use of such space; Public Service Law upon application by the landlord pursuant to section 898.5 (c) the value of the applicant's property before the installation of cable television of this Part. facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and (d) the method or methods used to determine such values. The secretary may, §898.3 Notice of installation (a) Every cable television company proposing to install cable television upon good cause shown, permit the filing of supplemental information at any time service or facilities upon the property of a landlord shall serve upon said prior to final determination by the commission. landlord or an authorized agent, written notice of intent thereof at least 15 §898.7 Service of Application days prior to the commencement of such installation. (b) The secretary of the commission shall prescribe the procedure for service A copy of the application filed by the landlord for just compensation shall be of such notice, and the form and content of such notice, which shall include, served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located. but need not be limited to: (i) the name and address of the cable television company; (ii) the name and address of the landlord; §898.8 Responses (iii) the approximate date of the installation; and Responses to the application, if any, shall be served on all parties and on the (iv) a citation of section 228 of the Public Service Law and Part 898 of the commission within twenty days from the service of the application. commission's rules.

### §898.9 Hearing and determination

(a) If the commission finds that just compensation for the installation of cable television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law.
(b) An applicant may, within 20 days from the release date of the commission order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I, Subchapter A of this Title.

(c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

228(1)(a)(3) of the Public Service Law.

§898.4 Right of Entry

(c) Notice that installation of equipment has been completed may be served at

any time on landlords upon whose property cable television service or

(a) A cable television company shall have the right to enter property of the

date of entry and all other information described in section 893.3(b) of this

Part. The cable television company shall be liable to the landlord for any

damages caused by such entry but such damages shall not duplicate

damages paid by the cable television company pursuant to section

landlord for the purpose of making surveys or other investigations preparatory

to the installation. Before such entry, the cable television company shall serve

notice upon the landlord, or an authorized agent which notice shall contain the

facilities were placed prior to the effective date of this Part.