

**CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

**Notice of Adoption**

**NOTICE IS HEREBY GIVEN** that pursuant to sections 1043 and 1802 of the New York City Charter and section 11-412.1(b)(2) of the New York City Administrative Code, the Department of Housing Preservation and Development hereby adopts amendments to the rules governing tax lien sales and in rem foreclosures affecting distressed properties and certain other properties. The proposed amendments were published in the City Record on July 11, 2014. A public hearing was held on August 12, 2014.

**Statement of Basis and Purpose of the Adopted Rule**

The rule amends certain provisions of the Third Party Transfer program rules regarding evaluation of progress for the eventual ownership by tenants of a residential building that is subject to an in rem foreclosure judgment.

The City can convey residential property that is the subject of an in rem foreclosure judgment to a qualified third party. Under § 11-412.1(b)(2) of the New York City Administrative Code, the Department of Housing Preservation and Development (HPD) is responsible for promulgating rules about how third parties are deemed qualified and selected to acquire such property.

The rules governing how third parties may acquire such property as well as the third party transfer process are in Chapter 8 of Title 28 of the Rules of the City of New York (RCNY). Section 8-03(e) sets forth factors that HPD may consider in selecting a third party. Among those factors is “whether an application has been submitted under sponsorship of a Third Party on behalf of Tenants for eventual ownership by the Tenants of a property that is subject to an in rem judgment of foreclosure.” 28 RCNY 8-03(e)(9). Section 8-06 describes how HPD evaluates the tenants’ progress toward ownership of the property when a third party sponsor has submitted an application on their behalf. Section 8-07 describes how HPD determines whether or not to approve a transfer of property from a third party to tenants.

The amendments modify or clarify portions of Sections 8-06 and 8-07. The amendments provide more flexibility in the timing of training for tenants and for determining the end of the interim evaluation period.

Sections 1043 and 1802 of the New York City Charter and section 11-412.1(b)(2) of the New York City Administrative Code authorize HPD to make this rule.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New material in the following rule is underlined, deleted material is in [brackets].

Section one. Section 8-06 of chapter 8 of title 28 of the rules of the city of New York is amended to read as follows:

**§8-06 Interim Evaluation Period.**

(a) A property that has been transferred to a Third Party for which a Third Party has sponsored a Tenant application pursuant to §8-03(e)(9) of these rules shall be subject to an interim evaluation period during which progress toward eventual ownership by Tenants will be monitored by HPD.

(b) No later than [thirty] ninety days after transfer to a Third Party of a property for which a Third Party has sponsored a Tenant application pursuant to §8-03(e)(9) of these rules, such Third Party, or his or her designee, shall inform the Tenants that the property has entered into an interim evaluation period, and shall provide information to the Tenants about the process toward eventual ownership by the Tenants. Such Third Party shall make training available to such Tenants[, no later than ninety days] after such transfer. The training may include courses in building management, maintenance, and managing building finances. HPD may also provide notice to the Tenants regarding commencement of the interim evaluation period.

(c) The interim evaluation period shall include certain milestones for achievement which shall form the basis for HPD to either permit the property to move forward toward eventual ownership by Tenants, or to remove the property from the process toward such ownership. HPD shall evaluate progress toward eventual ownership by Tenants using the following milestones:

- (i) whether Tenants have cooperated with the Third Party in renewing leases or establishing new leases where none exists;
- (ii) whether at least 80% of the Tenants are actively paying rent;
- (iii) whether Tenants have cooperated with relocation plans, where applicable;
- (iv) whether Tenants have attended training programs offered by the Third Party; and
- (v) any additional factors that HPD considers appropriate in evaluating the [tenants'] Tenants' progress toward ownership, provided that HPD notifies the Tenants of any such additional factors.

(d) Such interim evaluation period shall commence upon transfer of the property to the Third Party and shall continue upon the transfer of the property to any subsequent Third Party. Such interim evaluation period shall end when any required rehabilitation of the property has been completed and permanent loan conversion has taken place, or at the conclusion of such [longer] shorter period as HPD shall determine with notice to the Tenants.

(e) HPD shall evaluate compliance with the milestones listed in subdivision (c) of this section at regular intervals, and shall inform Tenants and the Third Party of its findings. HPD may at any time remove a property from the process toward eventual ownership by Tenants based upon its evaluation. If HPD has not removed the property from such process, at the completion of the interim evaluation period it shall make a determination for such property pursuant to §8-07 of these rules.

§2. Section 8-07 of chapter 8 of title 28 of the rules of the city of New York is amended to read as follows:

**§8-07 Transfer from Third Party to Tenant Ownership.**

(a) Unless a determination has otherwise already been made, HPD shall make a determination whether or not to approve the transfer from a Third Party to Tenant ownership upon completion of the interim evaluation period. HPD will consider the following criteria when making such determination:

- (1) That an application was submitted to HPD pursuant to and in accordance with §8-03(e)(9) of these rules;
- (2) The time period that has elapsed since transfer of the property to the Third Party;

(3) Whether the property has been rehabilitated and permanent loan conversion has taken place;

(4) The number of Tenants who have signed a petition affirming that there is a functioning [tenant] Tenant organization, that they wish to own the property, and that they understand the extent of the responsibilities of ownership of the property;

(5) The amount of time that a Tenant organization has been in existence at the property;

(6) The number of members of the Tenant organization who have participated in any training offered by HPD, including, but not limited to, courses in building management, maintenance, and managing building finances;

(7) The number of Tenants who have attended a presentation by HPD regarding ownership of the property;

(8) The level of Tenant interest in ownership as indicated through subscriptions to buy units;

(9) The record of payment of all existing loans, status of rent payments, and adequacy of management of the property;

(10) HPD's evaluation of the progress made toward [tenant] Tenant ownership during the interim evaluation period as set forth in §8-06 of these rules; and

(11) Any other criteria that HPD deems relevant to the request, including, but not limited to, any information provided to it by the Third Party.