

## DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

### Notice of Adoption of Rules Governing RPTL Section 421-a Tax Exemption Benefits

Notice is hereby given that pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development by §1802 of the New York City Charter and Section 421-a of the Real Property Tax Law, and in accordance with the requirements of §1043 of the New York City Charter, the Department of Housing Preservation and Development is adopting rule amendments implementing new requirements adopted by the State Legislature in Chapter 20 of the Laws of 2015.

A public hearing was held on April 15, 2016.

New material is underlined.

[Deleted material is in brackets.]

“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.

### Statement of Basis and Purpose of Adopted Rule

New York State Real Property Tax Law §421-a provides real property tax exemptions for eligible, new multiple dwellings. HPD determines eligibility for §421-a real property tax exemptions within the City of New York. HPD is adopting amendments to chapter 6 of Title 28 of the Rules of the City of New York (the “421-a Rules”) to implement changes enacted by the State Legislature regarding multiple dwellings that commence construction on or after June 15, 2015. The new State law prohibits the isolation of affordable units to a specific floor or area of a building and requires shared common entrances and common areas for all residents. The new State law defines common entrances as “any area regularly used by any resident for ingress and egress from a multiple dwelling.”

The rule amendments prohibit isolation of affordable units by requiring that, whenever a story contains one or more affordable dwelling units, at least 30% of the units on such story must be market rate units. The rule amendments also define common areas and require them to be shared between all residents. Both of these provisions are now required by the new State law.

The rules:

- Apply to all multiple dwellings that commence construction on or after June 15, 2015, and on or before December 31, 2015, and that receive their first temporary or permanent certificate of occupancy on or before December 31, 2019.
- Establish that in any story containing one or more affordable dwelling units not less than 30% of the dwelling units on such story must be market rate dwelling units, but authorizes HPD to waive this requirement in any multiple dwelling in which more than 50% of the dwelling units are affordable units.
- Establish that every building segment in a multiple dwelling must contain one or more affordable dwelling units.

- Establish that all common areas in a multiple dwelling must be open and accessible to all residents, including the residents of affordable dwelling units.

HPD's authority for these rules is found in section 1802 of the New York City Charter and section 421-a of the Real Property Tax Law.

### **Adopted Rule**

Section 1. Subdivision (a) of section 6-09 of chapter 6 of Title 28 of the Rules of the City of New York is amended by adding new definitions in alphabetical order to read as follows:

Building segment. "Building segment" shall have the meaning set forth in Section 12-10 of the Zoning Resolution.

Commercial space. "Commercial space" shall mean any space within a building that is devoted to commercial, community facility or other non-residential use.

Common area. "Common area" shall mean any space within a building to which the residents of two or more dwelling units have access without paying a usage fee and that is not located in a dwelling unit, in a commercial space or in a service area.

Service area. "Service area" shall mean any space within a building that is utilized by the owner or manager of such building, and their respective employees, for purposes of building administration, and to which residential tenants do not normally have access.

Story. "Story" shall have the meaning set forth in Section 12-10 of the Zoning Resolution.

§ 2. Paragraph 4 of subdivision (b) of section 6-09 of chapter 6 of Title 28 of the Rules of the City of New York is amended to read as follows:

(4) [Reserved] For all multiple dwellings that commence construction on or after June 15, 2015, and on or before December 31, 2015, as determined pursuant to the definition of "commence" contained in §§421-a (2)(a)(iv)(A) and 421-a(2)(c)(ii) of the Real Property Tax Law, and that receive their first temporary or permanent certificate of occupancy covering all residential areas on or before December 31, 2019:

(i) If a story contains one or more GEA 60% AMI units or GEA SGA units, not less than thirty percent of the dwelling units on such story shall be units that are neither GEA 60% AMI units nor GEA SGA units, provided, however, that the Department may waive such requirement where the GEA 60% AMI units and GEA SGA units comprise more than fifty percent of the units in a multiple dwelling;

(ii) Every building segment in a multiple dwelling must contain one or more GEA 60% AMI units or GEA SGA units; and

(iii) All common areas in a multiple dwelling shall be open and accessible to the residents of all of the dwelling units in such multiple dwelling, including the residents of GEA 60% AMI units and GEA SGA units.