Department of Housing Preservation & Development
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NYC Department of Housing Preservation and Development (HPD)
Office of Development, Division of Preservation Finance

Housing Preservation Opportunities Program Term Sheet

Program Description	HPD's Housing Preservation Opportunities Program provides tax exemptions to preserve privately owned multifamily housing at a range of affordability levels throughout New York City. The Program's mission is to ensure the long-term affordability and operating viability of quality housing. The Program provides Article XI tax exemptions for a term of 40 years, for multifamily housing in good physical condition, or where physical needs can be addressed without an HPD loan. Non-HPD governmental sources of funding may be used in conjunction with the tax exemption.
Eligible Owners	Housing Development Fund Companies or Corporations ("HDFC") formed pursuant to Article XI of the Private Housing Finance Law. The HDFC must be a single-purpose HDFC formed with consent from HPD. If the HDFC is already formed, the certificate of incorporation may need to be amended to comply with HPD's current requirements. Beneficial ownership may by retained by limited partnerships, corporations, joint ventures, limited liability corporations or 501(c)(3) corporations through a nominee agreement, as applicable, as approved by HPD (together with the HDFC, referred to as "the Owner"). The Owner of the project must have a demonstrated track record of successfully owning and operating regulated affordable housing projects. If the Owner does not have the necessary experience or track record, the Owner must contract with a property management company approved by HPD that has experience managing comparable properties and/or a qualified firm to monitor regulatory compliance.
Eligible Properties/Projects	Multifamily rental properties that are in good physical condition, or where physical improvements can be undertaken without the use of HPD subsidy. Projects seeking funding should refer to HPD's loan programs. Eligible properties may currently be rent stabilized, rent or income restricted, or unregulated. Owners of properties financed with federal Low Income Housing Tax Credits should contact hpdyear15@hpd.nyc.gov. Owners of properties that have HUD financing or project-based rental assistance should contact hpdhudmf@hpd.nyc.gov. HPD **will prioritize projects** with one or more of the following characteristics: • A significant portion of units, beyond the minimum affordability required herein, restricted for households at very low and extremely low incomes (at or below 50% and 30% of Area Median Income, respectively). • A significant portion of vacant units, which can be leased up immediately and set aside for formerly homeless households • Outstanding immediate rehabilitation or repair needs that require a tax exemption to facilitate financing of these improvements, and which will improve housing conditions for existing residents • Operational issues, as evidenced by an inability to meet standard debt service coverage ratios or income to expense ratios • A significant portion of units that will have rents reduced for existing tenants

	• Promotes geographic diversity Projects that do not meet any the above characteristics may still be submitted for review and HPD will consider applications based on resource availability. HPD may also prioritize projects with other meaningful housing policy benefits.
Article XI Exemption	The Article XI provides a partial exemption of the residential assessed value of the project; commercial taxes may not be exempt. All HPO Article XI Exemptions must be authorized by the New York City Council through the passage of a resolution. <u>Term:</u> 40 years <u>Exemption Sizing</u>: The Article XI exemption is structured as a Gross Rent Tax (GRT), with the GRT calculated as a percentage of the gross potential residential and commercial income. Project GRTs will be sized using one of the following two methods, as determined by HPD: ***Method 1*:** For projects where a significant *majority* of the units are rent stabilized and where there is no or a limited difference between preferential and legal rents. Projects with average current rents below 60% of Area Median Income (AMI) will receive an exemption with a GRT set at 5%, which may be adjusted per the below at HPD's discretion. HPD may also consider projects with average rents above 60% AMI that meet the above priorities. Projects with average current rents above 60% AMI may receive an exemption with a GRT set at 15%, which may be adjusted downward per the below at HPD's discretion. The GRT could also be adjusted upward if the net present value per unit of the exemption exceeds $50,000/unit. Please find NPV calculation assumptions under Method 2, as applicable. The GRT may be adjusted downward for the following reasons: • Ensuring a minimum income to expense ratio of 1.05, and debt service coverage ratio of 1.25 on senior debt, or • To finance immediate physical needs as identified in an IPNA and Aging in Place improvements requested per the approved resident survey, with the costs substantiated by a contractor or other third party-professional subject to HPD's approval, or • Committing to additional policy goals as directed by HPD, such as funding transition reserves for substantial immediate homeless placements. ***Method 2:*** For projects where there are *no current* rent restrictions or there is *potential for rent increases* or loss of rent stabilization (e.g. expiration of existing tax benefits or other regulatory term). This includes the following types of projects: • Projects with existing 421(a) or J51 tax benefits where rent stabilization protections for tenants will expire after the tax benefit expires • Projects with a portion of the units not rent stabilized

- Projects with a gap between existing preferential rents and legal rents

HPD may consider projects where up to 1/3 of the units are not restricted when the project is in a high cost/high opportunity area, or that have other unique circumstances where regulating 100% of units at least 10% below market is infeasible but where the project presents opportunities to ensure deep affordability for the restricted units.

All Method 2 projects will receive a 10% GRT for the first five years of the regulatory term, with the exception of circumstances outlined below. For years 6-40, HPD will conduct a cost benefit analysis comparing the value of the regulations to the cost of the exemption to size the GRT.

The cost benefit analysis must use HPD's standardized assumptions for HPO projects: an 8% discount rate for valuing the benefit of the exemption and affordability, maximum market rent growth of 3.5%, rent stabilization and AMI growth of 3%, a 7.25% turnover rate for rent stabilized units, and a 15% turnover rate for unregulated units with rents for unregulated units phased up to market over five years. Market rents must be supported by a third-party Market Study or appraisal, except where existing in-building market-rate rents are used.

- The GRT for years 1-5 may be adjusted downward to ensure a minimum income to expense ratio of 1.05 and minimum debt service coverage ratio of 1.25 on senior debt.
- If for years 6-40 the supportable GRT exceeds 10%, the higher GRT will apply for all 40 years.
- If current taxes are less than the GRT, the current taxes will remain in place until the new GRT exemption is lower than the current taxes.
- All exemptions will be structured with a Gross Rent Tax to ensure compliance with the regulatory agreement.

Regulatory Restrictions

Projects must enter into a regulatory agreement with a term of 40-years, coterminous with the tax benefits. In addition to the affordability requirements outlined herein, at least 2/3 of the units must be rent and income restricted below 165% AMI. The regulatory agreement will restrict all residential units and shall contain the following terms.

<u>Rent Stabilization</u>

- All residential units must be rent stabilized. At the end of the restriction period, all existing tenants must remain rent stabilized and receive renewal leases at the then current rents or restricted preferential rent, if applicable.
- All units covered by the regulatory agreement that are not currently rent stabilized are required to be registered with the New York State Rent Stabilization system according to NYS Housing Community and Renewal guidelines within thirty days of the executed regulatory agreement.

<u>Rent Restrictions</u>

- The rents for all units in the project must be restricted into one or more regulatory tiers, with the regulatory tiers averaging at least 10% of AMI below current market rent for the neighborhood (as verified by a third-party market study, appraisal, or existing market rents at the property,

	acceptable to HPD) and where the restricted average rents are no more than 10% higher than current rents. • HPD will determine the rent restrictions for each project through an analysis of the current rents, with the goal of mirroring the restrictions to the current rent distribution and ensuring the deepest possible rental affordability. • Method 2 projects must agree to either restrict the rents for at least 30% of units at or below 60% of AMI, with at least 15% of all units restricted at rents that are affordable to Extremely Low Income (below 30% AMI) and Very Low Income households (below 50% AMI), OR agree to a 20% minimum homeless set aside. <u>Income Restrictions</u> • All restricted units will have an income restriction that will apply to the lease of units upon initial occupancy. • Units with rents restricted at 80% or below of AMI may be rented to households earning up to 10% of AMI above the regulated rent restriction, unless other restrictions control. • Units with rents restricted above 80% of AMI may be rented to households earning up to 20% of AMI above the regulated rent restriction, unless other restrictions control. <u>Homeless Set Aside</u> • Other than for Method 2 projects adopting a 20% homeless requirement, all projects must include a minimum of a 10% homeless set aside. The requirements shall be met using any current vacancies and/or the first available units that turn over after closing until meeting the requirement. All homeless unit referrals must be made by HPD's Homeless Placement Unit. • HPD may require that the Owner partner with a qualified social service organization to provide stabilization services to formerly homeless households. <u>Debt, Encumbrances, Subordination, and Conveyances</u> • Throughout the term of the regulatory period, Owner may not convey, transfer, or sell title or the beneficial interest without HPD's prior written consent. • Owner may not encumber the property with debt or liens that endanger the viability of the project. Owner must notify HPD prior to encumbering the property, and owner must receive prior approval of HPD for any encumbrance.
Closing Requirements	<u>Acquisition Projects</u> • If the property is being acquired from a third party, Sponsor must provide HPD with a proposal satisfactory to HPD prior to acquisition. The purchase price must be supported by an "as-is" appraisal issued prior to acquisition consistent with HPD's Preservation Finance "as-is" appraisal guidelines: https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/as-is-appraisal-guidelines.pdf <u>Physical Needs and Housing Code Violation Requirements</u> • Projects must complete an Integrated Physical Needs Assessment (IPNA) from a firm that has been pre-qualified by HDC: http://nychdc.com/content/pdf/RFP/IPNA%20Pre-Qualified%20Firms%20List.pdf

- Immediate and Short Term (under 12 months) physical needs identified in the IPNA must be addressed by owner, including through escrowing or reserving funds, as appropriate. The owner must complete the work prior to closing or within a designated period acceptable to HPD. Owner must certify that the work has been completed, and if the work includes major systems replacement or exceeds certain costs thresholds, as determined by HPD, the owner must have an additional certification from a third party contractor, architect, or other third-party technical-services provider.
- All housing code violations in the property must be addressed prior to closing, or the owner may be required to enter into a Housing Repair Agreement and escrow appropriate funds to address the renovations.

Aging in Place
- HPD will require that the Owner comply with the agency's Aging in Place initiative. Further details available here: https://www1.nyc.gov/site/hpd/services-and-information/aging-in-place.page

Prevailing Wage Requirements
- Projects in City-initiated rezoning areas will be subject to Prevailing Wage requirements. Further information available here: https://www1.nyc.gov/site/hpd/services-and-information/prevailing-wage.page
- Projects will be subject to Prevailing or Protected Wage requirements per Local Law 212

Tenant Notification and Certification
- Owner must notify tenants in writing of the impending closing, regulatory restrictions, and exemption terms using a template provided by HPD prior to closing or within thirty days following the closing for acquisition projects.
- Owner must provide HPD with a copy of the letter and an affidavit certifying that tenants were notified, along with an owner-certified rent roll.

Integrity Review
- Owner and all members must submit disclosure statements and supporting documents for the HPD sponsor review procedure. The disclosure statement can be found at the following webpage: https://www1.nyc.gov/site/hpd/services-and-information/integrity-review.page

Article XI Process
- HPD coordinates and routes Article XI requests to City Council. Upon HPD review and approval of the Article XI, HPD will submit the request to City Council. The Owner must get a letter of support from the Council Member(s) in whose district the project is located. The City Council schedules the item for consideration and must pass a resolution authorizing the exemption.
- After the Article XI resolution is approved and the owner executes the regulatory agreement, the Owner must request a Certificate of Eligibility be issued by HPD. Once the Article XI certificate is issued, the Department of Finance implements the tax benefits, which are effective as of the date the regulatory agreement is executed.

Application Requirements	• Sponsors should submit a project proposal including: location and description of the property, terms of the existing financing or details of the proposed acquisition, as applicable, and proposed financing plan. • Sponsors should detail project history, including a summary of ownership history with supporting documentation, any existing mortgages, use restrictions, prior tax benefits and rental assistance, preceding three years of project operating budgets, tenant arears and turn-over, audited financial statements if available, rent rolls, as well as current rent roll and operating budget. • Description of development team including Owner, management company and architect/contractor (as applicable), with list of principals and previous experience (particularly with HPD). Owner must provide a list of all properties owned or managed, including any related entities. • HPD may request financial statements for Owner. • Method 2 projects will be required to commission a third-party Market Study or appraisal of comparable market rents, except where in building comparable are used to establish the market rents.
Fair Housing and Accessibility Requirements	The Owner is required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination. The Owner must also construct the project in compliance with all laws regarding accessibility for people with disabilities, including but not limited to the New York City Building Code, the federal Fair Housing Act, the Americans With Disability Act, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.794) and implementing regulations at 24 CFR Part 8.
Marketing Requirements	All projects must be marketed according to HPD and HDC marketing guidelines. The developer must submit a marketing plan for agency review and approval. Where applicable, marketed projects will be required to use HPD's and HDC's lottery process.
HPD Contact	Hollis Savage Director, Leveraged Preservation Programs 100 Gold Street, Room 9-U7A New York, NY 10038 (212) 863- 6172 savageh@hpd.nyc.gov

HPD, in its sole discretion, may, at any time and without prior notice, terminate the program, amend or waive compliance with any of its terms, or reject any or all proposals.