

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development (HPD) pursuant to Sections 1043 and 1802 of the City Charter, and New York Real Property Tax Law (“RPTL”) Section 421-a(16) that the Department of Housing Preservation and Development is adopting amendments to chapter 51 of title 28 of the Rules of the City of New York (“Affordable New York Housing Program Rules”) to exempt land that contained motels or tourist cabins from the replacement ratio requirements for buildings receiving tax benefits under RPTL Section 421-a (16).

A notice of proposed rulemaking was published in the City Record on June 8, 2018. A public hearing was held on July 24, 2018. Written comments regarding the rules were received in accordance with the notice published in the City Record or electronically through NYC RULES at <http://rules.cityofnewyork.us/>. Comments were made available to the public within a reasonable time after the hearing at the 421-a Customer Service Conference Room 8-CO9, 8th Floor, 100 Gold Street, between 10:00 am -4:00 pm on weekdays.

Statement of Basis and Purpose

Section 421-a(16) of the Real Property Tax Law (RPTL) was enacted by the State Legislature in Chapter 20 of the Laws of 2015, as further amended by Chapter 59 of the Laws of 2017. RPTL Section 421-a(16) provides real property tax exemptions for eligible new multiple dwellings. In New York City, HPD determines eligibility for these exemptions and is responsible for ensuring that applicants for the exemption comply with eligibility requirements.

RPTL Section 421-a(16) provides that if the land on which an eligible site is located contained dwelling units three years prior to the commencement date that were thereafter demolished, removed or reconfigured, such eligible site must contain one affordable housing unit for each such dwelling unit. This provision was primarily intended to prevent the City from subsidizing the replacement of existing housing with new housing that did not provide substantially more units. However, it was not intended to prevent the replacement of transient housing such as motels or tourist cabins with permanent housing.

HPD’s rule exempts motels and tourist cabins from the replacement ratio requirement. Thus, if there was a motel or tourist cabin on the eligible site three years prior to the commencement date, the motel rooms or tourist cabins that were demolished, removed or reconfigured would not each have to be replaced with an affordable housing unit. However, such eligible sites would still have to meet one of the affordability options under RPTL Section 421-a(16) (the six rental affordability options require between 25-30% affordable units ranging from 40% to 130% of Area Median Income) in order to qualify for this tax exemption benefit.

HPD’s rule does not exempt dwelling units designated as hotel rooms on the certificate of occupancy from the replacement ratio requirement because the City Council has enacted legislation that imposes a temporary moratorium on the conversion of larger hotels to residential condominiums or other non-hotel uses. The Council’s actions were premised on the impact such conversions have on the City’s economy, particularly in relation to the loss of quality jobs. HPD does not want to further facilitate any such conversions by exempting hotel rooms from the

replacement ratio requirement. Unlike hotels, motels and tourist cabins are not subject to this conversion moratorium.

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.

Section 1. Section 51-01 of chapter 51 of title 28 of the Rules of the City of New York is amended by adding a new definition in alphabetical order to read as follows:

Motel or Tourist Cabin. “Motel or Tourist Cabin” shall have the meaning set forth in Section 12-10 of the Zoning Resolution.

§ 2. Section 51-05 of chapter 51 of Title 28 of the Rules of the City of New York is amended to read as follows:

§ 51-05 [Hotel Prohibition] Hotels, Motels and Tourist Cabins.

a. Eligible Sites located on land that contained dwelling units designated as Motel rooms or as Tourist Cabins on the certificate of occupancy in effect three years prior to the Commencement Date shall not be subject to paragraph (i) of the Act with respect to any dwelling units in such Motel or Tourist Cabin that existed on such date and that were thereafter demolished, removed or reconfigured.

b. No Eligible Multiple Dwelling that is operated as a Hotel shall be eligible for Affordable New York Housing Program Benefits.

Commissioner Maria Torres-Springer
August 13, 2018