

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Housing Preservation and Development (“HPD”) is proposing an amendment to chapter 5 of title 28 of the Rules of the City of New York (the “J51 Rules”) regarding certification of the cost of the conversion, alterations or improvements of a multiple dwelling that is eligible for tax benefits under the J-51 program.

When and where is the Hearing? HPD will hold a public hearing on the proposed rule. The public hearing will take place from 10:30 AM to 12:00 PM on Tuesday, October 10, 2017. The hearing will be in HPD’s offices at 100 Gold Street, 9th Floor, Room 9-V6, New York, New York 10038.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to HPD through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rules@hpd.nyc.gov.
- **Mail.** You can mail written comments to Elaine R. Toribio, TIP Director, 100 Gold Street, Room 8-D09, New York, New York 10038.
- **Fax.** You can fax written comments to HPD, 212 863-5899, ATTN: Elaine R. Toribio.
- **Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 863-7698. You can also sign up in the hearing room before the hearing begins on October 10, 2017. You can speak for up to three minutes.

Is there a deadline to submit written comments? All written comments must be submitted on or before October 10, 2017.

What if I need assistance to participate in the Hearing? You must tell the Office of Legal Affairs if you need a sign language interpreter or other reasonable accommodation of a disability at the hearing. You can tell us either by e-mail at accessibility@hpd.nyc.gov, by telephone at 212-863-7698, or by mail at the address given above. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by October 2, 2017.

This location has the following accessibility option(s) available: The building and hearing room are wheelchair accessible.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and an audiotape of oral comments concerning the proposed rules will be available to the public at the J-51 Customer Service Conference Room No. 8-C10, 8th Floor, 100 Gold Street, from 9:00 am to 12:00 pm and from 1:00 pm to 3:00 pm on Tuesdays and Thursdays.

What authorizes HPD to make this rule? Sections 1043 and 1802 of the City Charter and Section 489 of the New York State Real Property Tax Law authorize HPD to make these proposed rules. This proposed rule was not included in the Department's regulatory agenda for this fiscal year because it was not contemplated when the Department published the agenda.

Where can I find the HPD rules? The HPD rules are in title 28 of the Rules of the City of New York.

What rules govern the rulemaking process? HPD must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Real Property Tax Law §489 ("J-51") authorizes municipalities to enact local laws providing a reduction in real property taxes as an incentive to rehabilitate multiple dwellings. The City of New York has enacted such a local law in Administrative Code §11-243. HPD determines eligibility for J-51 tax benefits and is proposing an amendment to Chapter 5 of Title 28 of the Rules of the City of New York (the "J-51 Rules") in order to conform the proof of the applicant's actual expenditures required as part of the J-51 application to the relevant professional standards.

Certified public accountants ("CPAs") must meet the professional standards promulgated by the Financial Accounting Standards Board and by the American Institute of Certified Public Accountants ("CPA Professional Standards"). The current J-51 rules require certification of cost in accordance with generally accepted auditing standards; however, the terms "certification" and "generally accepted auditing standards" are defined under CPA Professional Standards in a manner inconsistent with the type of cost evidence HPD requires.

The proposed amendments would allow CPAs to provide HPD with satisfactory evidence of the J-51-related cost of construction while avoiding any conflict with professional standards by using terms consistent with CPA Professional Standards for "attest engagements," which oblige CPAs to follow specified government standards, guides, procedures, statutes, rules, and regulations, as well as applicable attestation standards.

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 5-05(c)(2)(i) of chapter 5 of title 28 of the Rules of the City of New York is amended to read as follows:

(i) a [certification] report by an independent certified public accountant [of] on the cost of the Conversion, Alterations or Improvements, in a form prescribed by the Office and in accordance with [generally accepted auditing standards] standards approved by the Office and based upon

the books and records of the owner provided that the original records are retained as set forth in §5-07(e)(3) and §39-06(a) and are available for audit purposes; or

Commissioner Maria Torres-Springer
September 8, 2017

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Certification of Costs in J-51 Program

REFERENCE NUMBER: 2017 RG 045

RULEMAKING AGENCY: Department of Housing Preservation and Development

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: June 6, 2017

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Certification of Costs in J-51 Program

REFERENCE NUMBER: HPD-41

RULEMAKING AGENCY: Department of Housing Preservation and Development

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

June 6, 2017
Date