

## NOTICE OF PUBLIC HEARING

**Subject:** Notice of Opportunity to Comment on Proposed Amendments to Rules governing tax exemptions under §489 of the Real Property Tax Law of the State of New York.

**Date/Time:** October 15, 2013/1:00 p.m. to 4:00 p.m.

**Location:** Department of Housing Preservation and Development  
100 Gold Street  
Eighth Floor, Room 8-B11  
New York, N.Y. 10038

**Contact:** Elaine R. Toribio  
TIP Director  
100 Gold Street  
Room 8-D09  
New York, N.Y. 10038  
(212) 863-7698

### **Proposed Rule Amendment**

Under the authority vested in the Commissioner of the Department of Housing Preservation and Development (HPD) by §1802 of the New York City Charter and Section 489 of the Real Property Tax Law ("J-51 Program"), and in accordance with the requirements of §1043 of the New York City Charter, the Department of Housing Preservation and Development intends to promulgate amended rules for the J-51 Program. The proposed rule amendments were included in HPD's 2013-14 Regulatory Agenda.

### **Instructions**

- Prior to the hearing, you may submit written comments about the proposed rule to Ms. Toribio by mail or electronically through NYC RULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules) by October 15, 2013.

- If you wish to testify at the hearing, please notify Ms. Toribio by October 14, 2013.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Ms. Toribio by October 7, 2013.
- Written comments and an audiotape of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 7:00 AM and 3:00 PM at the office of the J-51 Director, 100 Gold Street, Third Floor, Room 8-C08.

### **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 amendments to Chapter 5 of Title 28 of the Rules of the City of New York (the "J-51 Rules") in order to implement recent amendments to State and local law, Chapter 4 of the Laws of 2013 and Local Law Number 48 of 2013. The proposed amendments also reflect programmatic changes in application requirements.

### **Professional Certification**

**To ensure accuracy and expedite application processing**, the proposed rule amendments require submission of an affidavit of a registered architect or licensed professional engineer for purposes of determining the start dates and completion dates for J-51-eligible work in instances where either a Department of Buildings' permit (for start date) or a certificate of occupancy or other Department of Buildings' sign-off (for completion date) are not required by law. These dates are relevant for purposes of meeting both statutory and regulatory filing and work completion deadlines. HPD will retain the discretion to request additional documentation to support such dates, such as owner's affidavits, work contracts, invoices, cancelled checks and contractor's affidavits.

The proposed rule amendments also require submission of a Certified Public Accountant certification to verify the cost of J-51 eligible work other than for (a) governmentally-assisted work, for which a disposition of funds statement or HPD Commissioner certification will suffice, or (b) projects eligible to use the short form. The CPA certification will replace the submission of paid bills, cancelled checks, installment agreements and work contracts and thereby expedite the processing time for J-51 applications. However, HPD may still, in its discretion, require this additional documentation.

### Work and Application Filing and Completion Deadlines

The proposed rules implement Chapter 4 of the Laws of 2013 and Local Law Number 48 of 2013 by extending the date by which J-51 work must be completed from December 31, 2011 to June 30, 2015. They also implement these statutory amendments by reducing the time in which J-51-eligible work must be completed from 36 to 30 months following the start of construction. Governmentally-assisted projects or projects of housing development fund companies will still have 60 months to complete the work.

The proposed rule amendments reduce the time by which J-51 applications must be filed for most projects from 48 to 36 months following the start of construction. Loft conversions will still have 12 months following completion to file J-51 applications, and HPD will still have the discretion to extend the application filing deadline for governmentally-assisted projects to not later than 72 months following the start of construction.

The proposed rule amendments reduce the application completion period from 24 to 12 months after the initial filing date. Coop City, a State Mitchell-Lama development that consists of over 15,000 dwelling units, would now have 24 instead of 36 months to complete a J-51 application.

### Cooperatives and Condominiums

The proposed rule amendments implement the restrictions imposed by Chapter 4 of the Laws of 2013 and Local Law Number 48 of 2013 on benefits for homeownership projects with average assessed values equal to at least \$30,000 per dwelling unit. For work completed on or after December 31, 2011, such cooperatives and condominiums will only be eligible if the work was carried out with substantial governmental assistance. Certain homeownership projects, such as Mitchell-Lama mutual companies and Article V mutual redevelopment companies, are exempt from this restriction.

### Inspections and Inspection Fees

The proposed rule amendments clarify the requirement that J-51-eligible work be inspected by HPD prior to issuance of a certificate of eligibility and reasonable cost. They also implement the legislative change authorizing HPD to impose a fee equal to two times the actual cost of inspecting any conversions, alterations or improvements that are claimed in the J-51 application if such work is not completed at the time such inspections take place.

### Ineligible Conversions

The proposed rule amendments implement the restrictions imposed by Chapter 4 of the Laws of 2013 and Local Law Number 48 of 2013 on benefits for conversions from nonresidential to residential buildings. Any such conversion completed on or after December 31, 2011 will only be eligible for J-51 benefits if the work was carried out with substantial governmental assistance.

#### Certified Reasonable Cost Schedule

The proposed rule amendments implement an updated schedule for Certified Reasonable Costs for projects that complete construction on or after December 31, 2011. Rental units, which become rent stabilized due to receipt of J-51 benefits, and affordable homeownership units, will get an adjusted cost schedule to reflect their commitment to affordability as well as cost adjustments since the last time the schedule was updated. This increase is being funded by the reduction in benefits to market rate cooperatives and condominiums as well as the elimination of certain items of work from the cost schedule.

#### DOB Forms

The proposed rule amendments reflect the form change names by the Department of Buildings for electrical inspections.

#### Definitions

The proposed rule amendments capitalize defined terms utilized in the J-51 Rules.

“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. The definitions of “Commencement of construction”, “Completion of construction”, “Condominium”, “Cooperative” and “Floor Area” contained in Section 5-02 of Chapter 5 of Title 28 of the Rules of the City of New York, to be listed in correct alphabetical order, are amended to read as follows:

Commencement of [construction] Construction. (a) For work requiring a permit, “[commencement]Commencement of [construction]Construction” means:

(1) the date of issuance of a Building [permit]Permit [by the Department of Buildings], or

(2) if physical alterations commenced prior to obtaining a required [building]Building [permit]Permit, the actual start date, or

(3) for projects eligible pursuant to §5-03(a)(1), (3), (4), (9) or (10), the actual [commencement]Commencement of [construction]Construction in good faith based

on prior issuance of a Building Permit [by the Department of Buildings]. Demolition work does not constitute "[commencement]Commencement of [construction] Construction."

(b) If the issuance of a Building Permit [by the Department of Buildings] is not required by law, [commencement]Commencement of [construction] Construction means the date any physical operation has commenced solely for the purpose of making eligible [alterations]Alterations or [improvements]Improvements. The Office [may] shall require that the [commencement]Commencement of [construction] Construction date be confirmed by an affidavit [from the owner] of a registered architect or licensed professional engineer, along with such other information as the Office may require to substantiate such date, including, but not limited to, an affidavit [of a registered architect or licensed professional engineer] from the owner, a copy of the work contract, invoices, cancelled checks and a contractor's affidavit. [If a building permit is not required and if the cost of the work claimed is less than five thousand dollars (\$5,000) the Office may, in its discretion, accept an owner's affidavit as to the date of commencement of construction, and waive some or all of the additional evidence or information.] If an application contains a series of Major Capital Improvements, the [commencement]Commencement of [construction] Construction date is that of the first [major]Major [capital] Capital [improvement] Improvement for which benefits are claimed.

Completion of [construction]Construction. "Completion of [construction]Construction" means the earlier of:

(i) the date of issuance or reissuance of a Permanent Certificate of Occupancy [by the Department of Buildings];

(ii) the date of issuance of a Temporary Certificate of Occupancy [by the Department of Buildings] for all of the dwelling units therein, provided the only work remaining to secure a Permanent Certificate of Occupancy is work to be performed or completed in space to be used exclusively for non-residential purposes; or

(iii) the date of the issuance of a sign-off by the Department of Buildings as evidenced by the J-3, a computer printout or such other official documentation as may be required by the Department of Buildings and is acceptable to the Office if issued in connection with an eligible Conversion, Alteration or Improvement [alteration, improvement or conversion]; provided, however, that

(a) if none of the documents set forth above are required by law, "Completion of [construction]Construction" shall mean that date on which physical operations to undertake [alterations]Alterations or [improvements]Improvements are concluded as confirmed by the submission of an affidavit of a registered architect or licensed professional engineer, along with such other information as the Office may require to substantiate such date, including, but not limited to, an affidavit from the owner, a copy of the work contract, invoices, cancelled checks and a contractor's affidavit[. If

none of the documents set forth above are required by law and if the cost of the work claimed is less than five thousand dollars (\$5,000), the Office may, in its discretion, accept an owner's affidavit as to the date of completion of construction and waive some or all of the additional evidence and information];

(b) if the applicant is a [limited profit housing company organized pursuant to article two of the private housing finance law] Limited Profit Housing Company which owns and operates a planned unit development consisting of at least fifteen thousand (15,000) dwelling units[.] . "Completion of [construction]Construction" shall mean that date on which physical operations to undertake [alterations]Alterations or [improvements]Improvements are concluded as confirmed by the submission of an affidavit of a registered architect or licensed professional engineer, along with such other information as the Office may require to substantiate such date, including, but not limited to, an affidavit from the owner, a copy of the work contract, invoices, cancelled checks and a contractor's affidavit[, or, if the cost of the work claimed is less than five thousand dollars (\$5,000), the Office may, in its discretion, accept an owner's affidavit as to the date of completion of construction and waive some or all of the additional evidence and information]. Notwithstanding the foregoing, all required sign-offs including, but not limited to, the J-3 issued by the Department of Buildings, must be submitted to the Office before it issues a Certificate of Eligibility and Reasonable Cost pursuant to section 5-05(g)(3) of this chapter to such an applicant; and

(c) if an Alteration Type-1 Permit was issued to any applicant other than an applicant who is a [limited profit housing company organized pursuant to article two of the private housing finance law] Limited Profit Housing Company which owns and operates a planned unit development consisting of at least fifteen thousand (15,000) dwelling units, the only acceptable evidence of [completion]Completion of [construction]Construction shall be [the Temporary or Permanent] a Certificate of Occupancy.

**Condominium.** "Condominium" shall [means] mean [any residential unit which is owned pursuant to the Condominium Act, Article IX-B of Real Property Law, provided it is situated in a building which is a Class A multiple dwelling, and provided that such condominium has had a plan of condominium ownership accepted for filing by the Attorney General, or has received a "no action" letter from the Attorney General or has demonstrated that it is not subject to the requirements of §352(e) of the General Business Law] any dwelling unit that is owned pursuant to the Condominium Act and is situated in a Class A Multiple Dwelling that either (a) has had an Offering Plan accepted for filing by the Attorney General, (b) has received a "no action" letter from the Attorney General, or (c) has demonstrated that it is not subject to the requirements of §352(e) of the General Business Law.

**Cooperative.** "Cooperative" shall [means] mean any [building]Building which is operated exclusively for the benefit of persons or families who are entitled to occupancy in dwelling units by reason of ownership of stock, membership, or other

[indices] evidence of ownership in the corporate owner of the Building, or for the benefit of such persons or [other] families [and other persons or families] entitled to occupancy in dwelling units under applicable provisions of law without ownership of stock, membership, or other [indices] evidence of ownership in the corporate owner of the Building, [provided, such cooperative] where such Building either (a) has [either] had [a plan of cooperative ownership] an Offering Plan accepted for filing by the Attorney General [or], (b) has received a "no action" letter from the Attorney General or (c) has demonstrated that it is not subject to the requirements of §352(e) of the General Business Law.

**Floor [area]Area.** "Floor [area]Area" of a [building]Building shall [means] mean the gross [horizontal areas] square footage of all of the floors [of a dwelling] and the accessory structures of the Building on the same lot, as measured from the exterior faces of exterior walls or from the center line of party walls. "Floor [area]Area" of a dwelling unit in a Building means the gross [floor area] square footage within the dwelling unit measured from the interior faces of the demising partitions or party walls.

§ 2. Section 5-02 of Chapter 3 of Title 28 of the City of New York is amended by adding fourteen new definitions, to be listed in correct alphabetical order, to read as follows:

**Actual Assessed Value.** "Actual Assessed Value" shall mean the value of a property for real property tax purposes as determined by assessors as defined in Real Property Tax Law §102(1).

**BLDS.** "BLDS" shall mean HPD's Division of Building and Land Development Services or any successor unit.

**BLDS Inspection.** "BLDS Inspection" shall mean an inspection by BLDS of the items of work that are claimed in an application submitted pursuant to §5-05 of these Rules.

**Building Permit.** "Building Permit" shall mean a permit that is issued by the Department of Buildings to authorize work on Conversions, Alterations or Improvements.

**Certificate of Occupancy.** "Certificate of Occupancy" shall mean a Temporary Certificate of Occupancy or a Permanent Certificate of Occupancy.

**Condominium Act.** "Condominium Act" shall mean Article IX-B of the Real Property Law.

**Fannie Mae.** "Fannie Mae" shall mean the Federal National Mortgage Association.

**HDFC.** "HDFC" shall mean a housing development fund company organized pursuant to Article XI of the Private Housing Finance Law.

**Limited Profit Housing Company.** "Limited Profit Housing Company" shall mean a limited profit housing company organized pursuant to Article II of the Private Housing Finance Law.

**Mutual Redevelopment Company.** "Mutual Redevelopment Company" shall mean a Redevelopment Company that is a corporation operating exclusively for the benefit of the persons or families who are entitled to occupancy in a project of such Redevelopment company by reason of ownership of shares in such Redevelopment Company.

**Offering Plan.** "Offering Plan" shall mean an offering statement or plan with respect to a Condominium or Cooperative as required by §352-e of the General Business Law.

**Permanent Certificate of Occupancy.** "Permanent Certificate of Occupancy" shall mean a permanent certificate of occupancy that is issued by the Department of Buildings with respect to a Class A Multiple Dwelling for all dwelling units contained therein.

**Redevelopment Company.** "Redevelopment Company" shall mean a company organized pursuant to Article V of the Private Housing Finance Law.

**Temporary Certificate of Occupancy.** "Temporary Certificate of Occupancy" shall mean a temporary certificate of occupancy that is issued by the Department of Buildings with respect to a Class A multiple dwelling for all dwelling units contained therein.

§ 3. Paragraphs (3) and (4) of subdivision (a) of Section 5-03 of Chapter 5 of Title 28 of the Rules of the City of New York are amended to read as follows:

(3) Conversion permitted as of right by the Zoning Resolution of any non-residential [b]Building or structure situated in the borough of Manhattan into a Class A [multiple]Multiple [dwelling]Dwelling, provided [the building was a non-residential building immediately prior to the commencement of construction of the conversion, and provided further that if construction commenced on or after January 1, 1982, such conversion is permitted as-of-right by the Zoning Resolution] that the Conversion was completed prior to December 31, 2011.

(4) Conversion permitted as of right by the Zoning Resolution of any non-residential [building]Building or structure situated in the boroughs of the Bronx, Brooklyn, Queens or Staten Island into a Class A [multiple]Multiple



[dwelling] Dwelling, provided [the building was a non-residential building immediately prior to the commencement of construction of the conversion, and provided further that if commencement of construction occurred on or after October 1, 1983, such conversion is permitted as-of-right by the Zoning Resolution] that the Conversion was completed prior to December 31, 2011.

§4. Subdivision (d) of Section 5-03 of Chapter 5 of Title 28 of the Rules of the City of New York is amended to read as follows:

**(d) Time Requirements.** (1) In order to receive [the ] tax benefits [provided by] pursuant to the Act, eligible projects, except for conversions described in §5-03(a)(2), must be completed as follows:

(A) for eligible projects that are completed prior to December 31, 2011, within thirty-six months following the [commencement] Commencement of [construction] Construction, provided, however, a sixty month period for completion of construction following commencement of construction shall be available for];

(B) for eligible projects that are completed on or after December 31, 2011, within thirty months following the Commencement of Construction; or

(C) for eligible projects carried out with Substantial Governmental Assistance or [alterations and improvements] Alterations or Improvements undertaken by [a housing development fund company organized pursuant to Article 11 of the Private Housing Finance Law] an HDFC which[:

(i) are carried out with substantial governmental assistance or

(ii) which] are carried out in a property transferred from the City if such [alterations and improvements] Alterations or Improvements are completed within [seven years] eighty-four months after the date of transfer, [provided that] within sixty months following the Commencement of Construction.

Notwithstanding the foregoing, all such Conversions, [alterations] Alterations[,] or [improvements] Improvements [or conversions] must be completed [in any event] prior to [December 31, 2007] June 30, 2015. [ Provided further, however, the Office may grant an extension of the project completion period for any project carried out with the assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality if such alterations, improvements, or conversions are completed within sixty (60) months from commencement of construction.]

(2) In a [multi-building] project with multiple Buildings, if all [buildings] Buildings are not completed prior to December 31, 2011 and within the thirty-six month period following [commencement] Commencement of [construction] Construction, or on or after December 31, 2011 and within the thirty-month period following Commencement of Construction, as applicable, applications for benefits may be filed for separate [buildings] Buildings or separate groups of [buildings] Buildings which are on the same tax block and lot and are completed within [such thirty-six month] the applicable time period, provided that separate Building [permits] Permits are in effect for each such filing; otherwise, all work must be completed

within such thirty-six month period].

(2-a) For a project with multiple Buildings eligible for the sixty-month completion period established pursuant to subparagraph (C) of paragraph one of this subdivision in which all of the Buildings in such project are not completed within such period, separate applications for benefits may be filed either for: (A) different items of governmentally-assisted work completed within such sixty-month period, or (B) benefits for separate Buildings or separate groups of Buildings that are on the same tax block and lot and are completed within such sixty-month period, provided that separate Building Permits are in effect for each such filing.

(3) In order to receive the tax benefits [provided by] pursuant to the Act, an application for [certification of reasonable cost] a Certificate of Eligibility and Reasonable Cost must be filed with the Office after the Completion of Construction and (A) for Conversions, Alterations or Improvements completed before December 31, 2011, not later than forty-eight months following the [commencement]Commencement of [construction]Construction[ of the conversion, alteration or improvement], (B) for Conversions, Alterations or Improvements completed on or after December 31, 2011, not later than thirty-six months following the Commencement of Construction, or (C)[except that an] for applications for benefits pursuant to §5-03(a)(2) [must be filed]of these Rules, not later than twelve months following the[completion]Completion of [construction]Construction [of the conversion].

(4) At the discretion of the Commissioner, [an extension of ]the time to file an application for a Certificate of Eligibility and Reasonable Cost may be extended to not later than seventy-two months [from] following the [commencement]Commencement of [construction]Construction [may be granted] for any project that is carried out with [substantial governmental assistance] Substantial Governmental Assistance.

(5) An application for [certification of reasonable cost] a Certificate of Eligibility and Reasonable Cost must contain all documentation required by §5-05 of the Rules and be completed and filed with the Office as follows:

- (A) for Conversions, Alterations or Improvements that are completed before December 31, 2011, within twenty-four months of the initial filing date with the Office; [or]
- (B) for Conversions, Alterations or Improvements that are completed on or after December 31, 2011, within twelve months of the initial filing date with the Office; or
- (C) for projects carried out with Substantial Governmental Assistance that have received a Temporary Certificate of Eligibility and Reasonable Cost, within one year of the Completion of Construction.

If the application is not completed in accordance with subparagraphs (A)-(C) of this paragraph five, it shall be deemed withdrawn at the end of the tax quarter in which the [twenty-fourth (24th) month] application completion deadline set forth above falls, and no tax benefits shall be authorized for the [conversion]Conversion, [alterations]Alterations or [improvements]Improvements made thereunder[. Provided, however, that for projects carried out with substantial governmental assistance and which have received a Temporary Certificate of Eligibility, the applicant must complete the application within one year of the completion of construction. Refer] The applicant is referred to §5-05 for detailed filing requirements. Applicants must notify the Office of any change of address and/or change of ownership of the property, and any change in the designated filing agent.

(6) Notwithstanding the provisions contained in paragraph five of this subdivision, if the applicant is a Limited Profit Housing Company that owns and operates a planned unit development consisting of at least fifteen thousand (15,000) dwelling units, an application for [certification of reasonable cost] a Certificate of Eligibility and Reasonable Cost must contain all documentation required by §5-05 and be completed and filed with the Office within [thirty-six] twenty-four months of the initial filing date with the Office[ if the applicant is a limited profit housing company organized pursuant to article two of the private housing finance law which owns and operates a planned unit development consisting of at least fifteen thousand (15,000) dwelling units]. If such application is not so completed and filed with the Office within [thirty-six] twenty-four months of the initial filing date, the application shall be deemed withdrawn at the end of the tax quarter in which the [thirty-sixth (36th)] twenty-fourth (24<sup>th</sup>) month falls, and no tax benefits shall be authorized for the [conversion]Conversion, [alterations]Alterations or [improvements]Improvements made thereunder.

§ 5. Subdivision (g) of Section 5-03 of Chapter 5 of Title 28 of the Rules of the City of New York to read as follows:

**(g) Eligibility rules for [cooperatives]Cooperatives and [condominiums]Condominiums.** (1) Buildings owned as [cooperatives]Cooperatives or [condominiums]Condominiums are eligible for tax exemption pursuant to the Act, provided that the work is eligible pursuant to §5-03(a) of the Rules.

(2) Eligibility for tax abatement is limited to: (i) [Cooperatives and condominiums, for] [alterations]Alterations [and improvements] or Improvements completed prior to or within thirty-six months [after] following the date (a) of the first closing [in] of a [condominium]Condominium unit to a bona fide purchaser [occurs] or (b) [in the case of a cooperative thirty-six months from the date on which] on which the first shares allocable to a Cooperative unit are conveyed to a bona fide purchaser, or

(ii) Any [cooperative]Cooperative or [condominium]Condominium in which dwelling units have been newly created by the [substantial rehabilitation] Substantial Rehabilitation of a vacant [building]Building or the [conversion]Conversion of a non-residential [building]Building if such Conversion is completed prior to December 31, 2011, or

(iii) Reserved. [Any cooperative or condominium, for alterations and improvements commenced on or prior to August 7, 1992 which meets the following requirements:

(A) Alterations or improvements to at least one building-wide Major Capital Improvement as set forth in §5-03(a)(6)(i) or a new roof (at least seventy-five percent (75%) of the aggregate roof area is replaced or covered with new roofing) are part of the application for benefits, and

(B) the actual assessed valuation of such multiple dwelling shall not exceed an average of thirty thousand dollars (\$30,000) per dwelling unit at the time of commencement of construction of the alterations and improvements, and

(C) during the three years immediately preceding the commencement of construction of the alterations and improvements the average per room sale price of the dwelling units or the stock allocated to such dwelling units shall have been no greater than thirty-five percent (35%) of the maximum mortgage amount for a single family house eligible for purchase by the Federal National Mortgage Association, provided, that if an amount less than ten percent (10%) of the dwelling units or an amount of stock less than the amount allocable to ten percent (10%) of such dwelling units was transferred during such preceding three year period, eligibility for benefits shall be conditioned upon the multiple dwelling having an actual assessed valuation per dwelling unit of no more than twenty-five thousand dollars (\$25,000) at the time of commencement of construction of any such alterations or improvements.

(D) Assessed valuation shall be actual assessed valuation and not the transitional assessed value.

(E) The maximum amount of tax abatement which may be applied against taxes due in any tax year by any cooperative or condominium claiming benefits under this §5-03(g)(2)(iii) shall be limited to two thousand five hundred dollars (\$2,500) per dwelling unit.]

(iv) Alterations or Improvements in[Any]any [cooperative]Cooperative or [condominium]Condominium[,] for work [commenced after August 7, 1992] completed prior to December 31, 2011 which meets the following requirements:

(A) the [actual]Actual [assessed]Assessed [valuation] Value of such [multiple dwelling] Cooperative or Condominium shall not exceed an average of forty thousand dollars (\$40,000) per dwelling unit at the time of the [commencement]Commencement of [construction]Construction[of the alterations and improvements], and

(B) during the three years immediately preceding the [commencement]Commencement of [construction]Construction[ of the alterations and improvements], the average per room sale price of the dwelling units or the stock allocated to such dwelling units shall have been no greater than thirty-five percent (35%) of the maximum mortgage amount for a single family [house] home eligible for purchase by [the Federal National Mortgage Insurance Corporation] Fannie Mae, provided that if an amount less than ten percent (10%) of the dwelling units or an amount of stock less than the amount allocable to ten percent (10%) of such dwelling units [was] has not been transferred during such preceding three year period, then eligibility for benefits shall be conditioned upon the [multiple dwelling] Cooperative or Condominium having an [actual]Actual [assessed]Assessed [valuation] Value per dwelling unit of no more than forty thousand dollars (\$40,000) at the time of the [commencement]Commencement of [construction]Construction [of the alteration or improvement].

(C) Reserved.[Assessed valuation shall be actual assessed valuation and not the transitional assessed value.]

(D) The maximum amount of tax abatement which may be applied against taxes due in any tax year by any cooperative or condominium claiming benefits under this §5-03(g)(2)(iv) shall be limited to two thousand five hundred dollars (\$2,500) per dwelling unit.

(E) Notwithstanding anything to the contrary contained in this subparagraph (iv), the availability of any benefits pursuant to the Act to any multiple dwelling, [building]Building or structure owned and operated by a [limited-profit housing company established pursuant to

article two of the Private Housing Finance Law] Limited Profit Housing Company or a Redevelopment Company shall not be conditioned upon the Actual [assessed] Assessed [valuation] Value of such multiple dwelling, [building] Building or structure, including land, as calculated as an average dollar amount per dwelling unit, at the time of [commencement] Commencement of [the alterations or improvements;] Construction, provided, [however,] that such [limited-profit housing company] Limited Profit Housing Company or Redevelopment Company (1) is organized and operating as a [mutual company] Mutual Company or a Mutual Redevelopment Company, respectively, (2) continues to be organized and operated as a [mutual company] Mutual Company or a Mutual Redevelopment Company, respectively, and to own and operate the multiple dwelling, [building] Building or structure receiving such benefits, and (3) has entered into a binding and irrevocable agreement with the commissioner of housing of the state of New York, the [supervising agency] Supervising Agency, the New York city housing development corporation, or the New York state housing finance agency prohibiting, respectively, either (A) the dissolution or reconstitution of such [limited-profit housing company] Limited Profit Housing Company pursuant to section thirty-five of the Private Housing Finance Law for not less than fifteen years from the date of commencement of such benefits, or (B) the dissolution or reconstitution of such Redevelopment Company pursuant to section one hundred twenty-three of the Private Housing Finance Law until the earlier to occur of fifteen years from the date of commencement of such benefits, or the expiration of any tax exemption granted to such Redevelopment Company pursuant to section one hundred twenty-five of the Private Housing Finance Law.

(v) For purposes of determining the number of rooms in applying the limitations contained in §5-03(g)(2)[(iii) and](iv), the number of zoning rooms shall be used unless there is no filing with the Department of Buildings indicating the number of zoning rooms, in which case the number shall be [either]:

(A) the number of rooms[count] as evidenced in the Offering [plan] Plan [of cooperative or condominium ownership], or

(B) at the discretion of the Office, the [room count] number of rooms as certified by a licensed architect.

(vi) Where the [building] Building is occupied in part for residential purposes and in part for non-residential purposes, the Actual[assessed] Assessed [valuation] Value of the property shall be allocated by the Office between the residential and the non-residential portions based on pro rata [square footage] Floor Area, unless the non-residential portion is on a separately assessed tax lot, [and] in which case only the amount of [valuation] Actual Assessed Value allocated to the residential portion shall be considered in computing the Actual[assessed] Assessed [valuation] Value per dwelling unit for purposes of §5-03(g)(2)[(iii) and] (iv).

§ 6. The opening paragraph, and paragraphs (2), (4), (5) and (6) of subdivision (c) of Section 5-05 of Chapter 5 of Title 28 of the Rules of the City of New York are amended to read as follows:

(c) **Documentation required of all applicants.** All applicants must maintain documents relating to claimed costs as specified in § [5-07(b)] 39-06(a) of these Rules, and all completed applications for final tax benefits must include the following documentation of the applicant's actual expenditures properly organized and collated in time sequence:

(2) one copy of the following:

(i) a certification by an independent certified public accountant of the cost of the Conversion, Alterations or Improvements, in accordance with generally accepted auditing standards 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

(ii) A Disposition of Funds Statement or certification by the Commissioner of the cost of the work based upon other program records where the Conversion, Alterations or Improvements are undertaken aided by a loan made pursuant to Article 8, 8-a, 11, 12, 15 or 22 of the Private Housing Finance Law or §312 of the United States Housing Act of 1964 (42 U.S.C. §1452 b), or the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §12701 et seq.) or §696-a or §99(h) of the General Municipal Law, or any other City-supervised housing program, or, in the discretion of the Office, other governmentally-supervised housing program; or

[(i)](iii) In the discretion of the Office, [Paid] paid bills, cancelled checks, installment agreements, and the work contract and any change orders, indicating work, location of [building]Building, and quantity in appropriate unit of measurement all in a form corresponding to the individual items on the Itemized Cost Breakdown Schedule so that the claimed costs can be audited by HPD against the specific items and allowances contained in such schedules; or

[(ii) A disposition of funds statement or certification by the Commissioner of the cost of the work based upon other program records where the alterations, improvements, or conversions are undertaken aided by a loan made pursuant to Article 8, 8-a, 11, 12, 15 or 22 of the Private Housing Finance Law or §312 of the United States Housing Act of 1964 (42 U.S.C. §1452 b), or the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §12701 et seq.) or §696-a or §99(h) of the General Municipal Law, or any other City-supervised housing program, or, in the discretion of the Office, other governmentally-supervised housing program; or

(iii) in the discretion of the Office, a certification by an independent certified public accountant of the cost of the conversion, alterations or improvements, in accordance with generally accepted auditing standards and based upon the books and records of the owner provided that the original records are retained as set forth in §5-07 and are available for audit purposes; or]

(iv) [in] In the case of applications for [buildings]Buildings under §5-03(a)(9), a designated special application form may be submitted including the general contract (if applicable), trade payment breakdown schedule and an HPD inspection report or an HPD-approved construction monitor's certificate of completion. The

Office, upon receipt of appropriate documentation, may determine that each such project has incurred eligible costs of at least twenty thousand dollars (\$20,000) in CRC per unit and grant a Certificate of Eligibility and Reasonable Cost for one hundred and fifty percent (150%) of such amount, i.e., thirty thousand dollars (\$30,000) in CRC per unit; and

(4) Proof of [~~commencement~~]Commencement of [~~construction~~]Construction:

(i) Copy of a [~~building~~]Building[~~permit~~]Permit [issued by the Department of Buildings]; or

(ii) The Office [~~may~~] shall require that the date of [~~commencement~~]Commencement of [~~construction~~]Construction be confirmed by an affidavit [~~from the owner~~] of a registered architect or licensed professional engineer, together with, at the discretion of the Office, such other information as the Office may require to substantiate such date, including, but not limited to, an affidavit [~~of a registered architect or licensed professional engineer~~] from the owner, a copy of the work contract, invoices, cancelled checks or such other proof of payment as the Office shall require, and a contractor's affidavit. [If a Permit from the Department of Buildings is not required and if the cost of the work claimed is less than ten thousand dollars (\$10,000) the Office may, in its discretion, accept an owner's affidavit as to the date of the commencement of construction, and waive some or all of the additional evidence or information.] If an application contains a series of [~~major capital improvements~~] Major Capital Improvements, the [~~commencement~~]Commencement of [~~construction~~]Construction date is that of the first [~~major capital improvement~~] Major Capital Improvement for which benefits are claimed; and

(5) Proof of [~~completion~~]Completion of Construction:

(i) A Permanent Certificate of Occupancy; or

(ii) A Temporary Certificate of Occupancy for all of the dwelling units therein, and an affidavit from a registered architect or licensed professional engineer and the owner that the only work remaining to secure a [~~permanent~~]Permanent Certificate of Occupancy is work to be performed or completed in space to be used exclusively for non-residential purposes; or

(iii) A sign-off by the Department of Buildings as evidenced by the J-3, a computer printout or such other official documentation as may be required by the Department of Buildings and is acceptable to the Office if issued in connection with an eligible [~~alteration, improvement or conversion~~] Conversion, Alteration or Improvement; or

(iv) If none of the above are required by law, [~~completion~~]Completion of [~~construction~~]Construction [~~may~~] must be confirmed by the submission of an affidavit of a registered architect or a licensed professional engineer, along with such other information as may be required by the Office, including, but not limited to, an affidavit from the owner, a copy of the work contract, invoices, cancelled checks or such other proof of payment as the Office shall require, [~~disposition of~~]

funds statements] Disposition of Funds Statements, certification by the Commissioner based on program records or inspection, and a contractor's affidavit which confirm such [completion]Completion of [construction]Construction date to the satisfaction of the Office.[ If none of the documents set forth above are required by law and if the cost of the work claimed is less than ten thousand dollars (\$10,000), the Office may, in its discretion, accept an owner's affidavit as to the date of completion of construction and waive some or all of the additional evidence and information.]

(6) Proof of [compliance] Compliance with the Housing Maintenance Code. [(a) For applications received on or before December 30, 2004: Unless a Certificate of Occupancy has been issued within one year of the date of submission of the application, for all units for which benefits are claimed, a report of search from the Division of Code Enforcement of the Department of Housing Preservation and Development dated no earlier than ninety days prior to the date of submission of an application is required. In lieu of the latter, a building profile from the Department of Housing Preservation and Development may be submitted indicating that there are no violations of record which are classified as hazardous or immediately hazardous. If hazardous or immediately hazardous violations of record appear, the applicant must either clear the violations of record or submit affidavits:

(i) from a registered architect, or a licensed professional engineer, certifying that the architect or engineer has inspected the premises and that work necessary to remove any hazardous or immediately hazardous violations has been completed. If a violation classified as hazardous or immediately hazardous was caused by a tenant and the tenant refuses to grant access to the applicant to correct the violation, such violation will not preclude eligibility provided the applicant can establish these facts with clear and convincing evidence; and

(ii) from the owner, certifying that the architect or engineer has inspected the premises and that work necessary to remove any hazardous or immediately hazardous violations has been completed. If a violation classified as hazardous or immediately hazardous was caused by a tenant and the tenant refuses to grant access to the applicant to correct the violation, such violation will not preclude eligibility provided the applicant can establish these facts with clear and convincing evidence.

(b)] For applications [received after December 30, 2004] for which a Certificate of Occupancy has not been issued within one year of the date of submission of such application for all units for which benefits are claimed: If a search by the Department of Housing Preservation and Development dated no earlier than ninety days prior to the date of submission of such application indicates that there are any violations of record which are classified as hazardous or immediately hazardous, the applicant must either clear the violations of record or submit affidavits:

(i) from a registered architect, or a licensed professional engineer, certifying that the architect or engineer has inspected the premises and that work necessary to remove any hazardous or immediately hazardous violations has been completed.



If a violation classified as hazardous or immediately hazardous was caused by a tenant and the tenant refuses to grant access to the applicant to correct the tenant-related violation, such violation will not preclude eligibility provided the applicant can establish these facts with clear and convincing evidence; and

(ii) from the owner, certifying that the architect or engineer has inspected the premises and that work necessary to remove any hazardous or immediately hazardous violations has been completed. If a violation classified as hazardous or immediately hazardous was caused by a tenant and the tenant refuses to grant access to the applicant to correct the tenant-related violation, such violation will not preclude eligibility provided the applicant can establish these facts with clear and convincing evidence.

§ 7. Section 5-05 of Chapter 5 of Title 28 of the Rules of the City of New York is amended by adding a new subdivision (f-1) to read as follows:

(f-1) BLDS Inspections. Except as otherwise provided in Section 489 of the Real Property Tax Law, Section 11-243 of the Administrative Code or these Rules, the filing of an application for a Certificate of Eligibility and Reasonable Cost is deemed a representation by such applicant that, with respect to all items of work claimed in such application, there has been Completion of Construction. Unless the aggregate cost of the items of work claimed in such application is less than ten thousand dollars (\$10,000) or a designated special application form has been submitted in accordance with subparagraph (iv) of paragraph two of subdivision (c) of this section, all such items of work are subject to a BLDS Inspection prior to HPD's issuance of a Certificate of Eligibility and Reasonable Cost. Any Certificate of Eligibility and Reasonable Cost issued with respect to such application shall not include items of work claimed therein where, as determined by such BLDS Inspection, there has not been Completion of Construction.

§ 8. Subparagraph (v) of paragraph (2) of subdivision (g) of Section 5-05 of Chapter 5 of Title 28 of the Rules of the City of New York, relating to the calculation of the reasonable cost of construction work, is REPEALED.

§ 9. Chapter 5 of Title 28 of the Rules of the City of New York is amended by adding a new section 5-07.1 to read as follows:

Section 5-07.1 New Eligibility Requirements for Conversions, Alterations or Improvements Completed On or After December 31, 2011.

Definitions. For purposes of this section 5-07.1, the following terms shall have the following meanings:

Program for the Development of Affordable Housing. “Program for the Development of Affordable Housing” shall mean housing that complies with the requirements of a grant, loan or subsidy from any federal, state or local agency or instrumentality and of the Act or these Rules to provide the requisite percentage of its units as units affordable to and available for occupancy by individuals whose incomes do not exceed a specified limit.

Exempt Cooperatives and Condominiums. “Exempt Cooperatives and Condominiums” shall mean multiple dwellings, Buildings and structures (a) owned and operated by Mutual Companies, (b) owned and operated by Mutual Redevelopment Companies, (c) developed as a planned community and owned as two separate Condominiums containing a total of ten thousand or more dwelling units, or (d) Cooperatives or Condominiums that have an average assessed value of less than thirty thousand dollars (\$30,000) per dwelling unit.

Inspection Fee. “Inspection Fee” shall mean two times the actual cost of inspecting any Conversion, Alteration or Improvement claimed in an application for benefits pursuant to this chapter.

Substantial Governmental Assistance. “Substantial Governmental Assistance” shall mean (a) grants, loans or subsidies from any federal, state or local agency or instrumentality in furtherance of a program for the development of affordable housing approved by HPD, including, without limitation, financing or insurance provided by the state of New York mortgage agency or the New York city residential mortgage insurance corporation; or (b) a written agreement between an HDFC and HPD limiting the income of persons entitled to purchase shares or rent housing accommodation therein.

(a) With respect to Conversions, Alterations or Improvements completed on or after December 31, 2011:

(1) any multiple dwelling, Building or structure that is owned as a Cooperative or Condominium other than Exempt Cooperatives and Condominiums shall only be eligible for benefits pursuant to these Rules if the Alterations or Improvements for which such multiple dwelling, Building or structure has applied for such benefits were carried out with Substantial Governmental Assistance;

(2) no benefits shall be granted for the Conversion of a non-residential Building or structure into a Class A Multiple Dwelling unless such Conversion was carried out with Substantial Governmental Assistance; and

(3) if such Conversions, Alterations or Improvements are not completed on the date upon which HPD inspects the items of work claimed in an application for benefits pursuant to these Rules, the applicant must pay the Inspection Fee for each additional inspection required to confirm that such Conversions, Alterations or Improvements have been completed.

(b) Except as otherwise provided in paragraph one of subdivision (b) of this section 5-07.1, the provisions contained in subparagraphs (iv), (v) and (vi) of paragraph two of subdivision (g) of section 5-03 of these Rules shall apply to any multiple dwelling, Building or structure that is owned as a Cooperative or Condominium (other than Exempt Cooperatives and Condominiums) seeking benefits pursuant to the Act for Alterations or Improvements completed on or after December 31, 2011

§10. The opening paragraph of Section 5-08 of Chapter 5 of Title 28 of the Rules of the City of New York is amended to read as follows:

The following allowances apply to [alterations, improvements and conversions] Conversions, Alterations or Improvements for which the [commencement of construction] Commencement of Construction occurred after June 1, 1997 and which were completed prior to December 31, 2011. For [alterations, improvements and conversions] Conversions, Alterations or Improvements for which [commencement of construction] Commencement of Construction occurred on or before June 1, 1997, the Itemized Cost Breakdown Schedule in effect as of the date of such [commencement of construction] Commencement of Construction shall apply, except in the case of asbestos abatement, for which the allowance set forth below shall apply to all applications pending on or submitted after November 1, 1997.

§11. Section 5-08 of Chapter 5 of Title 28 of the Rules of the City of New York is amended by adding at the end thereof the following chart and accompanying text to read as follows:

The following allowances apply to Conversions, Alterations or Improvements that are completed on or after December 31, 2011.

Maximum Allowance for All Buildings

(a) **General construction**

			<u>Allowance</u>	
<u>Item</u>	<u>Units</u>	<u>Non-SGA Condo/Coops<sup>1</sup></u>	<u>Rentals &amp; SGA Condo/Coops<sup>2</sup></u>	
# * (1)	Asbestos Abatement <sup>3</sup>	See table	See table	
# * (2)	Boiler room enclosure	sq. ft. 7.50	7.50	
# * (3)	Bulkhead	sq. ft. 8.50	12.39	
	(4) Ceiling, cellar (fireproof gyp bd)	sq. ft. 1.60	1.60	
	(5) Ceilings, gypsum board or plaster	rooms 280.00	280.00	
# * (6)	Cement wash or parge waterproofing	sq. ft. 1.00	1.00	
# * (7)	Chimney, masonry	floors 1,200.00	1,319.18	
# (8)	Concrete, structural slab <sup>4</sup>	cu. yd. 500.00	500.00	
# (9)	Concrete, structural foundation <sup>4</sup>	cu. yd. 250.00	250.00	
# (10)	Concrete, flatwork <sup>5</sup>	sq. ft. 4.00	4.00	
# * (11)	Abatement of lead-based paint hazards <sup>6</sup>	See Itemized Cost Breakdown Schedule for Abatement of Lead- Based Paint Hazards in (g) below	See Itemized Cost Breakdown Schedule for Abatement of Lead-Based Paint Hazards in (g) below	
(12)	Demolition & removal allowance <sup>7</sup>	rooms 200.00	200.00	
<b>Doors (incl. frame and hardware)</b>				
# * (13)	Main entrance and lobby	set 4,000.00	4,000.00	
# * (14)	Hollow metal	doors 475.00	475.00	
# ** (15)	Storm	doors 180.00	180.00	
	(16) Dumbwaiters sealed	units 110.00	110.00	
	(17) Entrance, stoops, steps, concrete	risers 225.00	225.00	
# * (18)	Fire escapes	Flights 2,000.00	2,000.00	
# (19)	Floor joists (incl. sub floor) <sup>4</sup>	joists 165.00	165.00	
# ** (20)	Insulation, wall (thermal only)	sq. ft. 0.50	0.50	
# * (21)	Leaders and gutters	floors 40.00	72.10	
# * (22)	Lintel replacement	units 250.00	250.00	
# * (23)	Masonry	sq. ft. 7.50	7.50	
# * (24)	Parapet including coping	lin. ft. 135.00	135.00	
	(25) Partitions, gypsum board or plaster	rooms 600.00	600.00	
	(26) Partitions, framing	rooms 350.00	350.00	
# * (27)	Pointing <sup>8</sup>	sq. ft. 2.00	2.64	
# * (28)	Railings, roof	lin. ft. 25.00	30.14	
# * (29)	Refuse chute, complete	floors 750.00	750.00	
# * (30)	Roof surface	sq. ft. 1.25	1.25	
	(31) Skylight including screens <sup>9</sup>	units 1,300.00	1,300.00	
	(32) Stairs, steel	flights 2,200.00	4,620.00	
# (33)	Structural steel <sup>4</sup>	lbs. 1.50	1.50	
# ** (34)	Window, insulating glass	units 175.00	367.50	
# ** (35)	Window, insulating glass over 24 sf	sq. ft. 10.00	21.00	
# ** (36)	Window, storm with screen	units 65.00	65.00	
# * (37)	Window guards, approved security	units 175.00	175.00	
# * (38)	Window guards, childproof	units 25.00	25.00	

**(b) Elevator**

		<u>Allowance</u>			
		<u>Item</u>	<u>Units</u>	<u>Non-SGA</u>	<u>Rentals</u>
				<u>Condo/Coops<sup>1</sup></u>	<u>&amp; SGA Condo/Coops<sup>2</sup></u>
#	*	(1) New elevator, complete	units + floors	45,000.00 + 7,000.00	45,000.00 + 7,000.00
#	*	(2) Convert manual to automatic <sup>10</sup>	units	7,000.00	7,000.00
<b>Elevator, partial</b>					
#	*	(3) Motor <sup>11</sup>	motor	3,500.00	3,500.00
#	*	(4) Traction machine <sup>11</sup>	units	10,000.00	10,000.00
#	*	(5) Two-speed or variable controller <sup>11</sup>	each	8,000.00	8,000.00
#	*	(6) Cables	floors	400.00	400.00
#	*	(7) Shaftway door	doors	800.00	800.00
#	*	(8) Floor call station	floors	200.00	200.00
#	*	(9) Interlocks	each	280.00	280.00
#	*	(10) Door operator	units	2,500.00	2,500.00
#	*	(11) Car reline cab	units	4,200.00	4,200.00

**(c) Plumbing**

		<u>Allowance</u>			
		<u>Item</u>	<u>Units</u>	<u>Non-SGA</u>	<u>Rentals</u>
				<u>Condo/Coops<sup>1</sup></u>	<u>&amp; SGA Condo/Coops<sup>2</sup></u>
#	*	(1) Hot water heater/tank (input)	MBH	See table	See table
#	**	(2) Insulation, pipe (also for heating)	lin. ft.	2.50	2.50
<b>Piping</b>					
#	*	(3) Water main, risers, branches	d.u.	1,700.00	3,570.00
#	*	(4) Waste and vent (complete)	d.u.	1,500.00	1,500.00
#	*	(5) Water service, street connect <sup>12</sup>	lin. ft.	110.00	110.00
#	*	(6) Sewer, street connection	lin. ft.	200.00	200.00
#	*	(7) Gas, risers and connections	d.u.	275.00	287.70
#	*	(8) Sprinklers, piping and heads	heads	220.00	220.00
#	*	(9) Standpipe	floor	600.00	1,260.00
#	*	(10) Tank, water storage	gallon	1.50	1.50

**(d) Heating**

		<u>Allowance</u>			
		<u>Item</u>	<u>Units</u>	<u>Non-SGA</u>	<u>Rentals</u>
				<u>Condo/Coops<sup>1</sup></u>	<u>&amp; SGA Condo/Coops<sup>2</sup></u>
#	**	(1) Boiler-burner (output) <sup>13</sup>	MBH	See table	See table
#	**	(2) Boiler (output)	MBH	See table	See table
#	**	(3) Burner (output) <sup>13</sup>	MBH	See table	See table
		(4) Convector or radiators	units	250.00	306.60
#	*	(5) Electronic boiler control system	units	2500.00	2500.00
#	*	(6) Metal boiler stack	floors	400.00	535.92
#	*	(7) Oil tank	gallon	See table	See table
#	*	(8) Piping, heat mains, risers, branch	rooms	220.00	352.10

(e) Electric

	Item	Units	Allowance		
			Non-SGA Condo/Coops <sup>1</sup>	Rentals & SGA Condo/Coops <sup>2</sup>	
# *	(1)	All new apartment wiring	d.u. + room	400.00 + 420.00*	400.00 + 420.00*
# *	(2)	Apartment wiring only, adequate (risers and meters separate)	d.u.	370.00	370.00
# *	(3)	Service equipment and risers			
		Electric service equipment			
# *		with individual meter	entry + d.u.	1,500.00 + 160.00	1,500.00 + 160.00
# *		with master meter	entry + d.u.	1,500.00 + 110.00	1,500.00 + 110.00
# *		Apartment panel	d.u.	300.00	300.00
		<b>Risers</b>			
# *		with individual meter	d.u.	500.00	500.00
# *		with master meter	d.u.	350.00	350.00
# *	(4)	Outlet on new circuit	circuit	100.00	100.00
# *	(5)	Smoke / carbon monoxide detector combination (hard wired)	d.u.	100.00	100.00
# *	(6)	Submetering installation <sup>14</sup>	d.u.	280.00	280.00
#	(7)	Cogeneration equipment <sup>15</sup>	kilowatt	400.00	400.00

(f) Landmarks Projects Only

Items of work listed on this schedule only per §5-03(a)(5)

**Boiler Burner Table**  
(maximum allowance)

**Non-SGA Condo/Coops<sup>1</sup>**

Items	Output in MBH (thousand BTU per hour)		
	0 - 1,999 MBH	2,000 - 5,999 MBH	≥ 6,000 MBH
Boiler-burner <sup>13</sup>	\$ 1,500 + \$ 16.50/MBH	\$ 20,000 + \$ 7.25/MBH	\$ 47,600 + \$ 2.65/MBH
Burner <sup>13</sup>	\$ 500 + \$ 4.75/MBH	\$ 6,000 + \$ 2.00/MBH	\$ 8,300 + \$ 1.65/MBH
Boiler (existing burner)	\$ 1,000 + \$ 11.75/MBH	\$ 14,000 + \$ 5.25/MBH	\$ 39,300 + \$ 1.00/MBH

**Rentals & SGA Condo/Coops<sup>2</sup>**

Items	Output in MBH (thousand BTU per hour)			
	0 - 749 MBH	750 - 1,999 MBH	2,000 - 5,999 MBH	≥ 6,000 MBH
Boiler-burner <sup>13</sup>	\$ 8,895 + \$ 13.90/MBH	\$ 8,895 + \$ 13.90/MBH	\$ 19,700 + \$ 8.50/MBH	\$ 19,700 + \$ 8.50/MBH
Burner <sup>13</sup>	\$ 3,450 + \$ 0.82/MBH	\$ 500 + \$ 4.75/MBH	\$ 6,000 + \$ 2.00/MBH	\$ 8,300 + \$ 1.65/MBH
Boiler (existing burner)	\$ 5,445 + \$ 13.08/MBH	\$ 8,395 + \$ 9.15/MBH	\$ 13,700 + \$ 6.50/MBH	\$ 11,400 + \$ 6.85/MBH

**Domestic Hot Water Table**  
**(maximum allowance)**

**Non-SGA Condo/Coops<sup>1</sup>**

<b><u>Input in MBH</u></b>	<b><u>Allowance</u></b>
0 - 600	\$ 460 + \$ 9.10/MBH
> 600	\$ 1,900 + \$ 6.70/MBH

**Rentals & SGA Condo/Coops<sup>2</sup>**

<b><u>Input in MBH</u></b>	<b><u>Allowance</u></b>
0 - 599	\$ 2,700 + \$ 30.49/MBH
> 600	\$ 13,326.51 + \$ 10.90/MBH

**Oil Tank Table**  
**(maximum allowance)**

**Non-SGA Condo/Coops<sup>1</sup>**

<b><u>Size in Gallons</u></b>	<b><u>Allowance</u></b>
0 - 4,000	\$ 500 + \$ 1.10/gal.
> 4,000	\$ 2,900 + \$ 0.50/gal.

**Rentals & SGA Condo/Coops<sup>2</sup>**

<b><u>Size in Gallons</u></b>	<b><u>Allowance</u></b>
0 - 3,999	\$ 3,775 + \$ 1.60/gal.
≥ 4000	\$ 6,975 + \$ 0.80/gal.

**Asbestos Abatement Table**  
**(maximum allowance)**

**Non-SGA Condo/Coops<sup>1</sup>**

<b><u>Removal Units</u></b>	<b><u>Allowance</u></b>
Internal Linear Feet	\$ 1,600. + \$ 11/lin. ft.
Internal Square Feet	\$ 1,600. + \$ 11/sq. ft.

**Rentals & SGA Condo/Coops<sup>2</sup>**

<b><u>Removal Units</u></b>	<b><u>Allowance</u></b>
Internal Linear Feet	\$ 1,600. + \$ 11/lin. ft.
Internal Square Feet	\$ 1,600. + \$ 11/sq. ft.

**(g) Abatement of Lead-Based Paint Hazards<sup>6</sup>**

			<u>Allowance</u>		
<u>Item</u>	<u>Units</u>	<u>Non-targeted Areas</u>	<u>Targeted Areas</u>		
#	*	(1) <u>Inspection for Lead-Based Paint Hazards</u> <sup>16</sup>	<u>d.u. common area</u> <sup>17</sup>	<u>400.00</u>	<u>400.00</u>
#	*	(2) <u>Risk Assessment of Lead-Based Paint Hazards</u> <sup>16</sup>	<u>d.u. common area</u> <sup>18</sup>	<u>250.00</u>	<u>250.00</u>
#	*	(3) <u>Ceilings, lamination</u>	<u>rooms</u>	<u>320.00</u>	<u>420.00</u>
#	*	(4) <u>Ceilings, common area, lamination</u>	<u>sq. ft.</u>	<u>1.80</u>	<u>2.50</u>
#	*	(5) <u>Doors (incl. frame and hardware), main entrance and lobby</u>	<u>set</u>	<u>4,600.00</u>	<u>5,000.00</u>
#	*	(6) <u>Doors (incl. frame and hardware), hollow metal</u>	<u>doors</u>	<u>550.00</u>	<u>800.00</u>
#	*	(7) <u>Doors (incl. frame and hardware), wood swing</u>	<u>doors</u>	<u>155.00</u>	<u>350.00</u>
#	*	(8) <u>Doors (incl. frame and hardware), bi-fold closet</u>	<u>bi-fold</u>	<u>125.00</u>	<u>300.00</u>
#	*	(9) <u>Sliding closet (2 doors, incl. frame and hardware)</u>	<u>set</u>	<u>145.00</u>	<u>300.00</u>
#	*	(10) <u>Flooring, finished wood</u>	<u>rooms</u>	<u>575.00</u>	<u>1,250.00</u>
#	*	(11) <u>Flooring, resilient w/underlayment</u>	<u>rooms</u>	<u>515.00</u>	<u>585.00</u>
#	*	(12) <u>Partitions, gypsum board or plaster</u>	<u>rooms</u>	<u>690.00</u>	<u>1,170.00</u>
#	*	(13) <u>Partitions, common area</u>	<u>sq. ft.</u>	<u>1.80</u>	<u>2.50</u>
#	*	(14) <u>Stairs, steel (incl. risers, pans, railings, stringers, &amp; newel posts), stripped</u>	<u>steps</u>	<u>45.00</u>	<u>60.00</u>
#	*	(15) <u>Window, insulating glass</u>	<u>units</u>	<u>200.00</u>	<u>425.00</u>
#	*	(16) <u>Window, insulating glass over 24 sf</u>	<u>sq. ft.</u>	<u>12.00</u>	<u>30.00</u>
#	*	(17) <u>Convectors or radiators, new</u>	<u>units</u>	<u>260.00</u>	<u>275.00</u>
#	*	(18) <u>Convectors or radiators, stripped</u>	<u>units</u>	<u>115.00</u>	<u>150.00</u>
#	*	(19) <u>Risers, stripped</u>	<u>lin. ft.</u>	<u>15.00</u>	<u>20.00</u>
#	*	(20) <u>Kitchen cabinets</u> <sup>19</sup>	<u>lin. ft.</u>	<u>65.00</u>	<u>75.00</u>
#	*	(21) <u>Kitchen cabinets, base &amp; counter</u> <sup>19</sup>	<u>lin. ft.</u>	<u>80.00</u>	<u>105.00</u>
#	*	(22) <u>Medicine cabinets (incl. mirror)</u> <sup>20</sup>	<u>units</u>	<u>95.00</u>	<u>125.00</u>
#	*	(23) <u>Remove and install window sill</u>	<u>units</u>	<u>115.00</u>	<u>150.00</u>
#	*	(24) <u>Remove and install baseboard, wood molding</u>	<u>lin. ft.</u>	<u>2.50</u>	<u>3.50</u>
#	*	(25) <u>Remove and install closet shelf and pole</u>	<u>set</u>	<u>55.00</u>	<u>75.00</u>



\* Denotes Major Capital Improvement (MCI).

\*\* Denotes Energy Conservation Items which shall also be considered Major Capital Improvements.

# Denotes that the item allowance may be reduced by proportion of non-residential space where the item serves both residential and non-residential space. (Items wholly within or serving the non-residential space receive no allowance.)

1 The Maximum CRC contained in this column is available to multiple dwellings, Buildings or structures that are owned as a Cooperative or Condominium and that have an average assessed value of less than thirty thousand dollars per dwelling unit.

2 The Maximum CRC contained in this column is available to multiple dwellings, Buildings or structures that are (a) owned and operated as rental developments, (b) owned and operated by Mutual Companies, (c) owned and operated by Mutual Redevelopment Companies, (d) developed as a planned community and owned as two separate Condominiums containing a total of ten thousand or more dwelling units, and (e) owned as a Cooperative or Condominium for which the Alterations or Improvements for which such multiple dwelling, Building or structure has applied for J-51 benefits were carried out with Substantial Governmental Assistance as such term is defined in Section 5-07.1(a) of this chapter.

3 For (1) removal or encapsulation of any friable asbestos when done as part of a substantial rehabilitation requiring an alteration permit, or (2) for removal of asbestos Thermal System Insulation (TSI) on other rehabilitation or (3) for removal of other friable asbestos (and not roofing, siding or flooring) pursuant to a report from a certified asbestos inspector describing condition, quantity and location of asbestos containing materials to be removed including microscopic analysis. TSI shall mean insulation applied to heating, ventilation or air conditioning systems, hot or cold domestic water systems for the purpose of preventing heat transfer or water condensation. TSI shall include insulation on boilers, water tanks, air handling equipment and ducts, piping, pipe fittings or valves.

4 This item requires an affidavit from an engineer or architect certifying that he has personal knowledge of the installation and that the quantity claimed was installed. It also requires site photographs or other evidence satisfactory to HPD documenting the installation of the item.

5 This item includes inner walkways, courtyards, cellar slabs and the public sidewalk.

6 "For construction commenced on or after August 2, 2004, requires (a) ""an abatement"" of lead-based paint hazards, as defined in 40 Code of Federal Regulations part 745 or any successor regulations, in any existing dwelling, including any vacant or occupied dwelling unit or any common area, and (b) proof of lead-based paint hazards pursuant to an "inspection" and/or "risk assessment", as defined in 40 Code of Federal Regulations part 745 or any successor regulations. Notwithstanding the foregoing, no such benefit shall be given for (a) any abatement performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code, or

(b) any abatement performed in a dwelling unit or in the common areas in such dwelling unless all of the lead-based paint hazards identified in such dwelling unit or in all of the common areas in such dwelling have been abated. Furthermore, the deleading of lead-based paint hazards pursuant to a NYC Dept. of Health and Mental Hygiene order that is commenced prior to August 2, 2004 will continue to be eligible for J-51 benefits provided that there is an approved contract and sign-off. The allowance for such deleading of lead-based paint hazards will be per contract."

7 For substantial alterations and conversions only. The maximum quantity for this item is the number of new rooms created in the space where the demolition was done.

8 Not eligible if brickwork is covered by cement wash or other coating.

9 For skylights over 16 sq. ft. The maximum allowance for eligible skylights under 16 sq. ft. shall be 50 percent of allowance listed.

10 Plus all other applicable partial elevator items listed.

11 For buildings over eight stories the approved quantity shall be equal to the actual quantity increased by 10 percent for each floor over eight.

12 For water service 2 1/2" in diameter or greater than approved length shall be equal to one and one-half times the actual installed length.

13 Oil, gas, or combination burner.

14 For submetering, the owner must comply with the rent decrease requirements of DHCR, and the project must consist of a building-wide submetering in all individual dwelling units.

15 This item requires an affidavit from an engineer or architect certifying the installation of a natural gas-fired electric cogeneration system or the conversion or modification of an existing oil-fired cogeneration system to a natural gas-fired electric cogeneration system. Such affidavit also must provide that the waste heat from the cogeneration unit is used for heating domestic hot water or space heating or cooling of the residential units.

16 In order to qualify for benefits for Inspection for Lead-Based Paint Hazards or Risk Assessment of Lead-Based Paint Hazards, (a) the inspection or risk assessment must be an "inspection" or "risk assessment" as defined in 40 Code of Federal Regulations part 745 or any successor regulations, (b) the inspection or risk assessment must have determined that lead-based paint hazards exist in such dwelling, including any vacant or occupied dwelling unit or any common area, and (c) an "abatement" of lead-based paint hazards, as defined in 40 Code of Federal Regulations part 745 or any successor regulations, must have been performed in response to such inspection or risk assessment determination. Notwithstanding the foregoing, no such benefit shall be given for the inspection or risk assessment of a dwelling unit or common area if (a) any abatement performed in a dwelling unit or common area in response to such inspection or risk assessment determination was also performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code, or (b) all of the lead-based paint hazards identified in such dwelling unit or in all of the common areas in such dwelling by such inspection or risk assessment have not been abated. Furthermore, such benefits for inspection or risk assessment of lead-based

paint hazards shall only be given for such inspections or risk assessments commenced on or after August 2, 2004.

17 For dwellings with no more than three stories, the allowance for both non-targeted areas and targeted areas for inspection of all of the common areas in such dwelling is \$400. For dwellings with four to six stories, the allowance for both non-targeted areas and targeted areas for inspection of all of the common areas in such dwelling is \$800. For dwellings with at least seven stories, the allowance for both non-targeted areas and targeted areas for inspection of all of the common areas in such dwelling is \$1,200.

18 For dwellings with no more than three stories, the allowance for both non-targeted areas and targeted areas for risk assessment of all of the common areas in such dwelling is \$250. For dwellings with four to six stories, the allowance for both non-targeted areas and targeted areas for risk assessment of all of the common areas in such dwelling is \$300. For dwellings with at least seven stories, the allowance for both non-targeted areas and targeted areas for risk assessment of all of the common areas in such dwelling is \$400.

19 The eligible length cannot exceed 8 feet in any apartment.

20 Maximum of one per apartment unless the apartment has two or more bathrooms.

§12. Paragraph (1) of subdivision (b), paragraph (4) of subdivision (c), paragraph (4) of subdivision (d) and paragraph (4) of subdivision (g) of Section 5-09 of Chapter 5 of Title 28 of the Rules of the City of New York, are amended to read as follows:

(b)(1) DOB Certificate of Electrical Inspection [(Form BEC 16A, DOB)] or contractor's affidavit if the Certificate is not applicable.

\*\*\*

(c)(4) DOB Certificate of Electrical Inspection [(Form BEC 16A, for Bulletin 8, Bureau of Electrical Control, DOB)] or contractor's affidavit if the Certificate is not applicable (e.g., if boiler only); and

\*\*\*

(d)(4) DOB Certificate of Electrical Inspection[ (Form BEC 16A, for Bulletin 8, Bureau of Electrical Control, DOB)] or contractor's affidavit if the Certificate is not applicable.

\*\*\*

(g)(3) DOB Certificate of Electrical Inspection [(Form BEC 16A, for Bulletin 8, Bureau of Electrical Control, DOB)] or contractor's affidavit if the Certificate is not applicable; and

Commissioner Mathew M. Wambua  
September 10, 2013

**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:** Amendment of J-51 Rules

**REFERENCE NUMBER:** 2013 RG 069

**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: August 22, 2013

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

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

**RULE TITLE: Amendment of J-51 Rules**

**REFERENCE NUMBER: HPD-13**

**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/ Amy Bishop  
Mayor's Office of Operations

August 22, 2013  
Date