

NOTICE OF PUBLIC HEARING

Subject: Notice of Opportunity to Comment on Proposed Rules Governing the Inclusionary Housing Provisions of the New York City Zoning Resolution

Date / Time: January 11, 2013, from 10:00 A.M to 12:00 P.M.

Location: Department of Housing Preservation and Development
100 Gold Street, 9th floor, Room 9P-10
New York, New York 10038

Contact: Alisha Ozeri
Director of Inclusionary Housing, Division of Housing Incentives,
Department of Housing Preservation and Development
100 Gold Street, Room 9Z-3, New York, New York 10038

Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of Housing Preservation and Development by §1802 (6)(c) and in accordance with the requirements of §1043 of the New York City Charter that the Department of Housing Preservation and Development intends to modify rules governing inclusionary housing under the New York City Zoning Resolution §23-90, inclusive. The proposed rule was included in HPD's 2012-13 Regulatory Agenda. Additions to the rules are underlined and proposed deletions are [bracketed].

Instructions

- Prior to the hearing, you may submit written comments about the proposed rule to Ms. Alisha Ozeri by mail or electronically through NYC RULES at www.nyc.gov/nycrules by January 11, 2013.
- If you wish to testify at the hearing, please notify Ms. Ozeri by January 11, 2013.
- To request a sign language interpreter or other form of reasonable accommodation for a disability, at the hearing, please contact Ms. Alisha Ozeri by December 28, 2012.
- Written comments and an audiotape of oral comments received at the hearing will be available after January 11, 2013 between the hours of 9:00 A.M. to 5:00 P.M. at the office of Ms. Ozeri.

Statement of Basis and Purpose

Background

Under the Inclusionary Housing Program, in return for agreeing to keep the housing permanently affordable, owners receive a "bonus" in the form of additional developable floor

area that the owner can sell or transfer for construction on other sites. In certain high value areas, properties that have received Public Funding within 15 years before agreeing to provide permanent Inclusionary Housing are eligible for a smaller bonus than those that have not.

Proposed Rule Summary:

- Excludes Mitchell Lama tax exemptions from the definition of "Public Funding" contained in Section 23-911 of the Zoning Resolution, thereby making properties with such exemptions eligible to receive more bonus floor area than is currently allowed.
- Permits preservation projects with Mitchell Lama tax exemptions to be treated the same as preservation projects with other tax exemptions that the Zoning Resolution already excludes from the definition of "Public Funding."
- Provides an incentive for the owners of Mitchell Lama housing companies to keep existing affordable housing developments permanently affordable rather than convert them to market rate housing.
- Decreases the need for public subsidies to preserve Mitchell Lama units.

Commissioner Mathew M. Wambua
_____, 2012

The Proposed Rule

Section one. Section 41-01 of Title 28 of the Rules of the City of New York is amended to add the following definition:

Public Funding. "Public Funding" shall have the meaning set forth in Section 23-90 of the Zoning Resolution, except that, in accordance with the authority granted therein with respect to these guidelines, for Regulatory Agreements executed on or after December 1, 2011, "Public Funding" shall not include an exemption of real property taxes pursuant to Article II of the Private Housing Finance Law.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

RULE TITLE: Amendment of Rules Governing Inclusionary Housing Provisions

REFERENCE NUMBER: 2011 RG 116

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: December 23, 2011

**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: Amendment of Rules Governing Inclusionary Housing Provisions
REFERENCE NUMBER: HPD-5
RULEMAKING AGENCY: HPD-5**

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 Navarro
Mayor's Office of Operations

December 23, 2011
Date