TESTIMONY REGARDING THE PROPOSED RULE AMENDMENTS FOR THE SCRIE AND DRIE PROGRAMS RELATING TO PREFRENTIAL RENTS

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CHIP submits this testimony on behalf of thousands of owners with SCRIE and DRIE tenants in their buildings with preferential rents, but also on behalf of those tenants who will ultimately be impacted by the rule change. We thank the Department of Finance for addressing this issue, and hope that a small remedial step can also be taken to address any previously issued SCRIE or DRIE approval orders that were performed under the incorrect methodology.

Our main concern is that the DOF get the calculations correct. We have seen numerous examples where the DOF’s conversion of the SCRIE or DRIE frozen rent to the preferential rent cause the loss of tax benefits for tenants, increasing the amount they must pay out of pocket. While the DOF may have updated its methodology for converting the Frozen Rent from the legal rent to the preferential rent, there are likely hundreds of tenants who had renewals processed before the correct procedure was implemented. We recommend that DOF authorize a temporary amnesty program for SCRIE and DRIE recipients with preferential rents that were improperly processed over the last three years (i.e., since June 2019). Another suitable option would be for the DOF to conduct an internal review of any SCRIE or DRIE renewal since June 2019 to find and correct those that were performed under the prior incorrect methodology. We have seen examples of the incorrect methodology being used by DOF through 2021. Without such a review or amnesty program, these tenants will have lost a significant amount of hosing affordability.

Regarding the current proposed amendment, it is correct that the tax abatement credit for preferential rent renewals whose initial eligibility was June 1, 2019 or earlier should be the difference between the Frozen Rent in effect at that time and the Allowable Legal Rent for the period covered by the order. It is not as clear from the rule amendment that the DOF will be simplifying and clarifying the SCRIE and DRIE Approval Letters moving forward, which should also be done. For new approval orders. DOF can list the preferential rent in the new lease as the SCRIE Allowable Legal Rent, but must also list the Frozen Rent as the difference between the prior order’s tax abatement credit and the preferential rent charged in that lease. An example of how this would work is below, using RGB Order #51 of 2.5% increase for a two-year lease.

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|  | Prior SCRIE Approval Order | Current SCRIE Approval Order Before Rule Change | SCRIE Approval Order Should Be |
| Legal Rent in Lease | 2266.84 | 2289.51 | 2289.51 |
| Pref Rent in Lease | 1397.65 | 1411.63 | 1411.63 |
| SCRIE Allowable Legal Rent | 2266.84 | 1411.63 | 1411.63 |
| SCRIE Frozen Rent | 2029.00 | 1397.65 | 1159.81 |
| Actual Frozen Rent Paid by Tenant | 1159.81 | 1383.67 | 1159.81 |
| TAC | 237.84 | 13.98 | 251.82 |