REBNY Comments | August 8, 2025

**The Real Estate Board of New York to**

**the New York City Department of Finance on the Industrial and Commercial Abatement Program (ICAP)**

The Real Estate Board of New York (REBNY) is the City’s leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. Thank you to the New York City Department of Finance (DOF) for the opportunity to comment on the proposed rules implementing the Industrial and Commercial Abatement Program (ICAP).

REBNY strongly supports the City’s effort to clarify and strengthen ICAP, a critical program that helps incentivize commercial development and investment across New York City. These proposed rules include important updates to program requirements such as eligible sites and the administration of ICAP benefits. We appreciate the Department’s continued engagement with stakeholders throughout the process. As this rule is refined, it is essential that its implementation remains aligned with the City’s broader goals of supporting inclusive, mixed-use development that delivers both economic growth and affordable housing.

REBNY recommends that the language related to the proposed treatment of parking facilities be further clarified. The recently adopted state law added a new provision to prevent standalone parking garages from qualifying for the program, except in those cases where ICAP eligibility for properties with parking to only those associated with residential construction receiving financial assistance from Housing Preservation and Development (HPD). While we support the intent of this provision, the language found under Section 36-06(i) and (j) in the proposed rules as written may inadvertently exclude mixed-use development projects that include zoning-required parking for both residential and commercial components.

Under the City of New York’s Zoning Resolution (zoning resolution), [mixed-use residential developments](https://zr.planning.nyc.gov/article-i/chapter-2#12-10:~:text=existing%20building.-,large%2Dscale%20residential%20development,-LAST%20AMENDED%202) often span multiple zoning lots. In such cases, required parking for both residential and commercial components may be co-located in a shared facility in order to meet the findings for better site planning and meet zoning requirements that mandate the inclusion of parking spaces for uses that are part of the mixed-use residential development. This makes it impractical, if not impossible, to isolate residential parking from commercial parking, especially where the residential portion receives HPD financial assistance.

As currently written, the proposed rule could deny ICAP benefits to commercial portions of these projects despite the fact that the parking is necessary to satisfy zoning requirements for both residential and commercial components, the project supports affordable housing, and the development would be financially infeasible without ICAP.

We respectfully recommend that the term "residential" in Section 36-06 be replaced to explicitly include commercial construction where applicable, in order to reflect the structure of mixed-use projects. At the same time, the requirement to meet at least two of the three criteria should be retained, as currently proposed. These changes would allow the rule to remain consistent with its underlying policy goals of discouraging standalone garages while avoiding unintended disqualification of mixed-use affordable developments where parking is a zoning requirement, not an economic incentive.

REBNY and the real estate industry stand ready to assist the Department of Finance to ensure that ICAP continues to support inclusive and economically viable development throughout the five boroughs. Thank you for your consideration of these comments.

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