

REBNY Comment Letter | October 24, 2025

The Real Estate Board of New York to The New York City Department of Finance on the Proposed Rules for RACE for Space Program and Industrial and Commercial Abatement Program

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. REBNY appreciates the opportunity to submit comments to the New York City Department of Finance on Proposed Rules for RACE for Space Program and Industrial and Commercial Abatement Program.

Relocation Assistance Credit per Employee (RACE) program

We would like to extend our gratitude to the City, the State, and the Governor for their leadership in creating the Relocation Assistance Credit per Employee (RACE) program. We are deeply appreciative of the vision and collaboration that brought this initiative to life, and we are eager to support its implementation in any way possible.

This new RACE program represents a bold and necessary investment in New York City's commercial office stock. By encouraging the reactivation of underutilized space and attracting large out-of-state tenants, RACE will help reinvigorate our business districts, support local jobs, and contribute to a more dynamic and resilient city economy.

We respectfully offer one small note for consideration regarding the following provision in the proposed rules: "(2) if contained in real property wholly contained in the borough of Manhattan, are premises for which final certificates of occupancy were issued prior to January 1, 2000." We encourage the Department of Finance to interpret this provision as broadly as possible to align with the program's core goal of encouraging occupancy in older Manhattan buildings. Specifically, some buildings built before 2000 have undergone substantive renovations that required amending the Certificate of Occupancy, even though the underlying structure and character of the building remain consistent with pre-2000 development. We encourage the Department of Finance to allow such properties to participate, as doing so would maximize the program's reach and effectiveness.

Industrial and Commercial Abatement Program (ICAP)

REBNY and our members have long valued and actively participated in the ICAP program, recognizing it as a critical tool that supports thoughtful development across New York City. The program's success depends on clear and predictable rules that allow developers, architects, and property owners to plan and execute projects efficiently.

Under the current ICAP rules, a project's completion date is established through certification by a licensed architect or engineer, together with an ownership certification. This system provides a clear and objective standard that ensures both accountability and predictability. The proposed rule would change this by establishing a new two-part test for determining completion under subsection (f)(2). The Department of Finance may determine that construction is complete based on either a site inspection or an architect's or engineer's certification.

According to the Statement of Basis and Purpose of the proposed rule, the Department of Finance seeks to prevent situations where professionals certify completion before work is finished. While we understand this concern, the rationale is not adequate to justify such significant reforms to the program and does not reflect the realities of renovation projects. Unlike new construction, renovation work often occurs in multiple phases that evolve over time based on financing, leasing, and building needs. Because of this, completion cannot be determined solely through a single site inspection, particularly for projects that proceed in multiple stages.

This proposal would allow the Department of Finance to declare a project complete based only on its own inspection without input from the applicant and their team of project professionals. This could occur before all planned work is finished, before an applicant files a Notice of Completion, or before the project meets the Minimum Required Expenditure or generates sufficient taxable growth for ICAP benefits. This approach replaces a predictable professional certification process with a discretionary one and undermines the transparency and fairness that have made ICAP successful. It also undermines the as-of-right nature of the program by introducing unnecessary subjectivity.

If the Department of Finance has concerns about the accuracy of certifications, those can be verified through inspection or addressed under existing provisions in §36-15(c)(2), which allow the denial or revocation of benefits in cases of fraud. The proposed change is unnecessary and introduces new risks.

The proposed rule also provides no way for applicants to dispute a Department of Finance determination. There is no requirement that the department notify applicants when it deems a project complete. It also does not allow them to provide additional information. Without notice or a right to respond, applicants could miss critical ICAP deadlines, lose benefits, and face the need for costly litigation to recover them.

If the department proceeds with this rule, it should be amended to require written notice and an opportunity for applicants to respond before any final determination of completion. Furthermore, at a minimum, any rule changes should apply only to new applications that have not yet filed preliminary materials, allowing existing applicants to proceed under the standards they relied upon.

REBNY urges the Department of Finance to reconsider the proposed amendments to §36-01. There are sufficient safeguards in the current rules to address fraud and ensure compliance. The proposed changes would create confusion, administrative burdens, and legal disputes rather than clarity and consistency. Maintaining transparency and predictability is essential to preserving confidence in the ICAP program and supporting continued investment in New York City.

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