DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given that pursuant to section 421-a(16) of the New York State Real Property Tax Law and in accordance with sections 1043 and 1802 of the City Charter, the Department of Housing Preservation and Development (HPD) is adopting amendments to Chapter 51 of Title 28 of the Rules of the City of New York.

A notice of proposed rulemaking was published in the City Record on June 26, 2026. A public hearing was held on August 4, 2026. HPD received no comments related to the proposed rule. No changes have been made to the rule as proposed.

Statement of Basis and Purpose

The New York State program commonly called 421-a (contained in section 421-a of the New York State Real Property Tax Law, or RPTL) provides tax exemptions to certain housing developments. The 421-a exemption sunsets periodically, and its latest iteration is in RPTL section 485-x. However, housing developments that began construction before the commencement deadline and complete construction before the applicable completion deadline set forth in subdivision 16 of RPTL section 421-a are still eligible to receive a tax exemption pursuant to that subdivision.

In 2024, the Legislature amended the definition of "Eligible Multiple Dwelling," or apartment building eligible for the 421-a(16) exemption, in RPTL section 421-a(16)(a)(xxviii). This amendment extended the completion deadline from June 15, 2026 to June 15, 2031 for projects that meet certain affordability criteria set forth in section 421-a(16) (Affordability Options A, B, D, E or F), and other obligations, including providing a Letter of Intent to HPD within the requisite time frame. The completion deadline for the other 421-a(16) affordability options (Affordability Options C and G) was not extended and remains June 15, 2026.

As part of the application process for the 421-a(16) exemption, projects must submit a "Workbook" to the Department of Housing Preservation and Development (HPD), outlining, among other things, the specific affordability option that the project proposes to meet (Affordability Options A through G). HPD's current rules only allow Workbooks to be changed after they are approved by HPD under limited circumstances.

This poses a difficulty for projects that have submitted Workbooks for Affordability Options C or G in the hope that they would meet the June 15, 2026 completion deadline but have not been able to do so. Many of those projects also submitted a Letter of Intent to use Affordability Options A, B, D, E or F just in case they would be unable to meet the earlier deadline. However, in order to be eligible for 421-a(16) tax exemptions under Affordability Options A, B, E or F, such projects need to make changes to the Workbooks they had already submitted under their prior affordability option selection.

Therefore, HPD is amending its rules to authorize post-approval changes to Workbooks for projects that have filed a Notice of Intent if: (a) such project's approved Workbook identified the project as an Affordability Option C or Affordability Option G project, and (b) such project's Letter of Intent and amended Workbook indicate that it is changing its Affordability Option to Affordability Option A, Affordability Option B, Affordability Option E or Affordability Option F. The amended rule does not allow changes to the Utility Allowance and Multifamily Tax Subsidy Project Income Limits for the New York, New York HUD FMR Area contained in the original Workbook.

HPD's authority for these rules is found in sections 1043 and 1802 of the New York City Charter and section 421-a of the Real Property Tax Law.

New material is underlined.
[Deleted material is in brackets.]

"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.

Section 1. Subdivision (b) of section 51-02 of chapter 51 of Title 28 of the Rules of the City of New York is amended by adding a new paragraph (4) to read as follows:

(4) Notwithstanding paragraph (1) of this subdivision, the Agency may authorize changes to a Workbook for which the Agency provided an initial approval after the Notice of Intent has been filed for the Eligible Multiple Dwelling, provided that (i) the Agency shall only authorize changes related to the selection of the Affordability Option for the Eligible Multiple Dwelling, and (ii) the Agency shall only authorize such changes if all of the following conditions are met:

(A) the Workbook for which the Agency provided an initial approval indicated that the Eligible Multiple Dwelling would comply with Affordability Option C or Affordability Option G;

(B) the Eligible Multiple Dwelling for which such Workbook was submitted provided a letter of intent in accordance with clause (2) of subparagraph (xxviii) of paragraph (a) of the Act indicating that the Eligible Multiple Dwelling would comply with Affordability Option A, Affordability Option B, Affordability Option E or Affordability Option F and therefore would be eligible for an extension of its Completion Date to no later than June 15, 2031; and

(C) such Eligible Multiple Dwelling has submitted to the Agency proposed amendments to its Workbook that change its selected Affordability Option from Affordability Option C or Affordability Option G to Affordability Option A, Affordability Option B, Affordability Option E or Affordability Option F.