DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given that pursuant to Section 485-x 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 63 of Title 28 of the Rules of the City of New York.

A notice of proposed rulemaking was published in the City Record on May 12, 2026. A public hearing was held on June 30, 2026. No comments from the public were received.

Statement of Basis and Purpose

In 2024, the Legislature amended the New York State Real Property Tax Law ("RPTL") by adding a new section 485-x to provide a real property tax exemption for housing developments that meet certain affordability thresholds. That legislation (the "Act") created the Affordable Neighborhoods for New Yorkers Tax Incentive program (the "ANNY Program").

Benefits provided through the ANNY Program ("ANNY Program Benefits") are available to housing created from the construction of new buildings or certain conversions of existing buildings. ANNY Program Benefits are not available to properties that are used as hotels. To receive ANNY Program Benefits, a development must contain six or more dwelling units and construction must have started after June 15, 2022, and on or before June 15, 2034, and be completed on or before June 15, 2038. The Act conferred sole rulemaking authority on HPD with respect to the ANNY Program in all areas other than construction wages and prevailing wages, about which the Comptroller has authority to promulgate rules.

HPD rules provide procedures for applicants seeking ANNY Program Benefits. HPD is amending ANNY Program rules with respect to homeownership projects to revert to previous best practices under prior versions of this tax benefit program, and to fix issues with the current timeline of the application process for ANNY Program Benefits.

Specifically, the adopted rule allows homeownership projects to file their ANNY Program Benefits applications if at least fifty percent of all units have been sold, in order to make it easier for such projects to meet the application filing deadline of one year from completion of construction, provided that proofs of sale for all units in the project are submitted before ANNY Program Benefits are granted. Proof of sale is necessary to confirm that anyone who purchases a unit in a building receiving ANNY Program Benefits knows about the conditions applicable to their building under the ANNY Program, including that the buyer must use that unit as their primary residence, and will authorize any actions taken in the ANNY Program Benefits application process.

Additionally, the adopted rule amends section 63-01 of the Rules by deleting the definitions of the terms “Board Authorization and Consent Form” and “Deed,” and adding new definitions for the terms “Offering Plan” and “Purchase Contract.”

The adopted rule makes minor amendments to the wording of the proposed rule based on further internal review and feedback from the New York State Department of Law Real Estate Finance Bureau, which is responsible for the regulation of public offerings of real estate securities in or from New York pursuant to Article 23-A of the New York General Business Law, including the regulation of the offer of syndications and cooperative interests in realty, such as cooperatives and condominiums. There are no substantive differences between the proposed rule and the adopted rule.

HPD’s authority for these rules is found in sections 1043 and 1802 of the New York City Charter and section 485-x of the Real Property Tax Law.

<u>New material is underlined.</u>
[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. The definitions of “Board Authorization and Consent Form” and “Deed” set forth in section 63-01 of chapter 63 of Title 28 of the Rules of the City of New York are deleted and new definitions of “Offering Plan” and “Purchase Contract” are added to such section in alphabetical order to read as follows:

[Board Authorization and Consent Form. “Board Authorization and Consent Form” means a form executed by the owner of a unit in a Homeownership Project that (i) authorizes an officer of the board for said Homeownership Project to file an Application on behalf of such Homeownership Project; (ii) authorizes such board officer to execute and record the restrictive declaration required pursuant to 28 RCNY § 63-02(g)(1) on behalf of such unit owner; and (iii) contains the unit owner’s acknowledgement of the Primary Residence Requirement, the Building Size Requirement, and the Post-Completion Square Foot Assessment Cap Requirement.]

[Deed. “Deed” means an executed and recorded deed that contains the Primary Residence Requirement for a dwelling unit in a Homeownership Project.]

<u>Offering Plan. “Offering Plan” means an offering statement or prospectus governing the offering and sale of condominium or cooperative units in a Homeownership Project that has been approved by the New York State Department of Law and that (i) complies with Article 23-A of the General Business Law (“Martin Act”), the Act and this chapter; (ii) includes disclosure of the Building Size Requirement, Primary Residence Requirement and Post-Completion Square Foot Assessment Cap Requirement; (iii) includes the form deed as an exhibit to such offering statement or prospectus and such form deed expressly references the Primary Residence</u>

Requirement; and (iv) authorizes the filing of the Application with the Agency and both the execution and the recordation of any documents pertaining thereto in order to grant such Homeownership Project ANNY Program Benefits.

Purchase Contract. "Purchase Contract" means a contract to purchase a dwelling unit in a Homeownership Project in the form that is annexed as an exhibit to the Offering Plan and that (i) contains the Building Size Requirement, the Primary Residence Requirement and the Post-Completion Square Foot Assessment Cap Requirement and (ii) in which the purchaser authorizes the filing of the Application with the Agency and both the execution and the recordation of any documents pertaining thereto in order to grant such Homeownership Project ANNY Program Benefits.

§ 2. Subdivision (d) of section 63-02 of chapter 63 of Title 28 of the Rules of the City of New York is amended to read as follows:

(d) No Application shall be filed with respect to any Homeownership Project before [(1)] the first assessment following the Completion Date[; and (2) there are Board Authorization and Consent Forms and Deeds for each unit in such Homeownership Project].

§ 3. Paragraph (7) of subdivision (g) of section 63-02 of chapter 63 of Title 28 of the Rules of the City of New York is amended to read as follows:

(7) With respect to a Homeownership Project, the [Deed] Offering Plan and the [Board Authorization and Consent Form] executed Purchase Contracts for [every unit] no less than fifty percent (50%) of the units in such Homeownership Project; provided, however, that no Application for a Homeownership Project shall be approved until executed Purchase Contracts for every unit in such Homeownership Project have been submitted to the Agency.