

**DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

**Notice of Adoption of Rules Governing**

**Tax Exemption under §420-c of the Real Property Tax Law**

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of Housing Preservation and Development by §1802 (6)(c) and in accordance with the requirements of §1043 of the New York City Charter that the Department of Housing Preservation and Development intends to adopt rules governing tax exemption under §420-c of the Real Property Tax Law of the State of New York. Additions to the rules are underlined and proposed deletions are [bracketed].**

**A public hearing was held from 10:00 A.M. to 1:00 P.M. on February 8, 2008, at 100 Gold Street, Room 3Y-8, New York, New York.**

Section one. The definition of "housing accommodations" contained in subdivision (b) of section 31-01 of chapter 31 of title 28 of the Rules of the City of New York is amended to read as follows:

Housing Accommodations. "Housing Accommodations" shall mean Real Property used for (i) residential purposes including dwelling units, common sanitary and cooking and dining facilities, common recreation areas including outdoor recreation areas and public areas such as cellars, basements, public halls and stairs and roofs; (ii) ancillary residential purposes including management, administrative and social service offices and facilities used to provide social services (including job training, as defined herein) primarily for Persons or Families of Low Income residing in such Housing Accommodations [ ,provided that such] ; or (iii) on or after July 1, 2004, community facility uses that (A) provide services to individuals who reside in the area, (B) limit any fees charged for such community facility uses to fees that are affordable to individuals whose household incomes do not exceed sixty percent (60%) of the area median income adjusted for family size, and (C) are located on the same Real Property as the dwelling units that constitute such Housing Accommodations. Notwithstanding the foregoing, any portion of the combined floor area of such ancillary residential purposes and/or community facility uses which [do not exceed] exceeds twenty-five percent (25%) of the Aggregate Floor Area of the Real Property shall not qualify as Housing Accommodations.

**Statement of Basis and Purpose.** Section 420-c of the Real Property Tax Law was originally enacted in 1993 to provide tax exemption for eligible owners who develop affordable housing by syndicating federal low income housing tax credits. Under Real Property Tax Law § 420-c, eligible owners are corporations, partnerships or limited liability companies in which at least 50% of the controlling interest is held by a charitable or social welfare organization formed under 501(c)(3) or 501(c)(4) of the Internal Revenue Code. They also must own legal and beneficial title or a legal and beneficial leasehold interest with a term of at least 30 years. Furthermore, the municipality must sign or approve a regulatory agreement requiring that the real property be used to provide low income housing for the entire term of the tax exemption (i.e., even after the tax credits have expired).

Currently, only ancillary residential purposes that primarily serve the residents of such housing accommodations can receive Real Property Tax Law § 420-c benefits. The rule amendments extend this important tax exemption to community facility uses that meet eligibility criteria similar

to those provided for in the tax credit program. Any project that has this type of community facility use as of July 1, 2004 or thereafter can now receive Real Property Tax Law § 420-c benefits for such facility. This amendment recognizes the importance of such community facility uses to the entire community in which the housing accommodations are located and not just to the residents thereof. Collectively, the ancillary residential purposes and community service facilities in such housing accommodations cannot exceed 25% of the aggregate floor area of the real property. The portion that does will be ineligible for the Real Property Tax Law § 420-c tax exemption.

Shaun Donovan, Commissioner

February 20, 2008