

## **NOTICE OF PUBLIC HEARING**

**Subject:** Opportunity to comment on Proposed Rules regarding objections to charges filed as tax liens enforced under the Housing Maintenance Code.

**Date/Time:** July 7, 2011 10:00 a.m. to 11:00 a.m.

**Location:** Department of Housing Preservation and Development  
100 Gold Street  
5th Floor, Room 5R1  
New York, N.Y. 10038

**Contact:** Assistant Commissioner Grace DeFina  
100 Gold Street, Room 4-C1  
New York, N.Y. 10038

### **Proposed Rule Amendment**

Pursuant to the authority vested in the City of New York Department of Housing Preservation and Development ("HPD") by Chapter 61 of the New York City Charter and by New York City Administrative Code §27-2090 and in accordance with section 1043(b) of the Charter, HPD intends to propose new rules pertaining to objections to charges enforced as tax liens pursuant to the Housing Maintenance Code. New material in the following rule is underlined. The proposed rule amendment was included in HPD's regulatory agenda.

### **Instructions**

- Prior to the hearing, written comment regarding these rules may be sent to Assistant Commissioner Grace DeFina, 100 Gold Street, Room 4-C1, New York, New York 10038. Written comments may also be submitted electronically through NYC RULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules), on or before July 7, 2011.
- Individuals seeking to testify should notify HPD at the above address prior to the date of the hearing. Speakers will be limited to five minutes.
- Individuals requesting a sign language interpreter or other form of reasonable accommodation for a disability should notify Assistant Commissioner Grace DeFina at the above address by June 23, 2011.
- After the hearing, written comments and a summary of oral comments received at the hearing may be requested by calling the Office of Legal Affairs, between 9:00 A.M. and 5:00 P.M., at (212) 863-8381.

## **Statement of Basis and Purpose of Proposed Rule**

Several provisions of the Administrative Code have been amended. This rulemaking repeals and replaces Chapter 17 of Title 28 of the Rules of the City of New York pertaining to emergency repair charges and liens to align the rules with current statutes and the agency's process for receiving and deciding on objections to four types of charges: 1) emergency repair charges, 2) alternative enforcement repair program charges, 3) emergency demolition charges, and 4) charges for demolitions performed pursuant to a precept issued under the Building Code. All of these charges have tax lien status under the Administrative Code and are subject to the procedural requirements in Article 8 of Subchapter 5 of the Housing Maintenance Code.

---

Section one. Chapter 17 of Title 28 of the rules of the city of New York concerning "Amounts to be Filed as Tax Liens Pursuant to the Housing Maintenance Code" is REPEALED, and a new Chapter 17 is promulgated, to read as follows:

### **RULES PERTAINING TO OBJECTIONS TO CHARGES ENFORCED AS TAX LIENS PURSUANT TO §§27-2144, 27-2153(q), 28-215.1.1 AND 28-216.11 OF THE ADMINISTRATIVE CODE**

#### **§17-01 Scope.**

This chapter describes the process for making objections to municipal charges that are enforced as tax liens against properties pursuant to §§27-2144, 27-2153(q), 28-215.1.1 and 28-216.11 of the Administrative Code and any other municipal charges that may be made tax liens subject to the process described in Article 8 of Subchapter 5 of the Housing Maintenance Code.

#### **§17-02 Definitions.**

(a) In this chapter, the following terms have the following meanings:

- (1) "Administrative Code" means the New York City Administrative Code.
- (2) "Billing Application Detail" means a record kept by the Department of Finance that contains the date of a statement of account.
- (3) "Commissioner" means the Commissioner of the Department of Housing Preservation and Development or a person designated by him or her to exercise his or her powers set forth in this chapter.
- (4) "Department" means the Department of Housing Preservation and Development.
- (5) "Housing Maintenance Code" means chapter two of title 27 of the Administrative Code.
- (6) "Owner" has the same meaning as described in Multiple Dwelling Law §4(44) and Administrative Code §27-2004(45)(a).
- (7) "Statement of Account" means a bill for taxes, charges and assessments that the Department of Finance sends to owners of real property.

(8) "Tax Lien" means a lien arising pursuant to the provisions of Chapter 3 of Title 11 of the Administrative Code as a result of the nonpayment of any charges that are made a lien subject to the provisions of such chapter including any interest and penalties.

**§17-03 Objection Procedure.**

(a) The Department may file a lien for its expenses and fees incurred pursuant to Administrative Code §§27-2144, 27-2153(q), 28-215.1.1 and 28-216.11.

(b) Unless otherwise stated in Administrative Code §27-2146 and these rules,

(1) an owner, or

(2) a mortgagee or lienor, whose mortgage or lien would have priority over the Department's lien if not for the provisions of §27-2144,

who receives a statement of account pursuant to Administrative Code §27-2129 with a charge incurred pursuant to Administrative Code §§27-2125, 27-2153, 28-215.1.1 or 28-216.11 may notify the Department in writing of his or her objection to such charge.

(c) The "statement date" listed on the Department of Finance's billing application detail for a statement of account shall be presumptive evidence that such statement of account was mailed within five business days of the statement date to the person or entity registered with the Department of Finance.

(d) All objections to a charge on a statement of account shall be submitted in writing or electronically. Each objection shall be addressed to the Department to the attention of the Research and Reconciliation Unit, 100 Gold Street, Room 4A, New York, N.Y. 10038 or to [www.hpderp@hpd.nyc.gov](mailto:www.hpderp@hpd.nyc.gov).

(e) Each objection to a charge on a statement of account shall:

(1) specify the charge objected to and the nature of such objection and

(2) include any documentation supporting the objection.

Any charge without specific objections from an owner shall be considered undisputed.

(f) Each objection to a charge on a statement of account shall be received by the Department prior to the due and payable date of such charge. Pursuant to Administrative Code §27-2129, if an owner does not notify the Department in writing of his or her objection to such a charge before the due and payable date as indicated on the statement of account, the owner may not contest the charge in any subsequent judicial or administrative proceeding.

(g) Unless otherwise stated in subdivision (c) of Administrative Code §27-2146, a written objection to a charge on a statement of account may not be based upon:

(1) the lawfulness of the repair or other work done or,

(2) the propriety and accuracy of the expense for which a lien is claimed.

(h) Within a reasonable time after receipt of a written objection to a charge on a statement of account, the Department will make a determination based on all the documentation received from the objecting owner as well as the records of the Department. The Department will then inform the objecting owner of such determination in writing, including the reasons for that decision.

**NEW YORK CITY LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE: Objections to Charges Enforced as Tax Liens**

**REFERENCE NUMBER: 2011 RG 029**

**RULEMAKING AGENCY: Department of Housing Preservation and Development**

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

May 10, 2011  
Date

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1526**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Objections to Charges Enforced as Tax Liens**

**REFERENCE NUMBER: HPD-4**

**RULEMAKING AGENCY: Housing Preservation Department**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi  
Mayor's Office of Operations

05/11/11  
Date