

NOTICE OF RULE MAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 1043 and 1054 of the New York City Charter, I hereby promulgate the amendment to rules relating to residential real property held in the cooperative or condominium form of ownership. The rule was published in the proposed form on December 27, 2018. A hearing for public comment was held on January 29, 2019.

Jacques Jiha Commissioner of Finance

S/S _____

STATEMENT OF BASIS AND PURPOSE

The purpose of this rule amendment is to allow for a waiver of the current requirement that in order to be eligible for a partial tax abatement of real property taxes for qualifying property held in the cooperative or condominium form of ownership, the qualifying property must be owned by an individual. This requirement will be waived if the apartment or its shares are owned by a LLC, or LP, one or more of the partners or members is a law enforcement officer and he or she demonstrates that there is an imminent and/or ongoing security threat that necessitates ownership by such an entity.

The enabling legislation for partial tax abatement for residential real property held in the cooperative or condominium form is set forth in Real Property Tax Law Section 467-a which was originally enacted by chapter 273 of the Laws of 1996 and as amended by chapter 4 of the Laws of 2013.

Matter underlined is new. Matter in brackets [] is to be deleted.

“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.

AMENDMENT TO RULES RELATING TO RESIDENTIAL REAL PROPERTY HELD IN THE COOPERATIVE OR CONDOMINIUM FORM OF OWNERSHIP

Section 1. Subdivision (j-1) of section 50-02 of Chapter 50 of Title 19 of the Rules of the City of New York is added to read as follows:

“Law enforcement officer” means anyone who is, or was, employed as a federal, state or local judge, prosecutor, state or local police or peace officer or federal law enforcement officer as defined by the United States Code.

Section 2. Subdivision (k) of section 50-02 of Chapter 50 of Title 19 of the Rules of the City of New York is amended to read as follows:

(k) “Owner” means the owner, in whole or in part, of a dwelling unit in real property held in the condominium form of ownership, or a tenant-stockholder of a cooperative apartment corporation who owns, in whole or in part, a dwelling unit, as represented by his or her shares of stock in

such cooperative apartment corporation. For purposes of these rules, with respect to any dwelling unit, or the shares representing a dwelling unit, held in trust solely for the benefit of a person or persons who would otherwise be eligible for an abatement pursuant to these rules were such person or persons the owner or owners of such dwelling unit, such person or persons are each deemed to be an "owner" of the dwelling unit. With respect to any dwelling unit, or the shares representing a dwelling unit, held in trust, the trustee or trustees of the trust are each deemed to be an "owner" of the dwelling unit. The holder or holders of a life estate in a dwelling unit are deemed to be "owner(s)" of the dwelling unit. An "owner" can only be an individual and cannot be a corporation, limited liability company, partnership or other entity, unless a waiver is granted pursuant to subdivision (d) of section 50-05 for a limited liability company or limited partnership.

Section 3. Subdivision (d) of section 50-05 of Chapter 50 of Title 19 of the Rules of the City of New York is re-lettered as subdivision (e), and a new subdivision (d) is added, to read as follows:

(d) Waiver of requirement that dwelling unit be owned by an individual. (1) A limited liability company or limited partnership may submit an application for a waiver of the requirement that an owner of a dwelling unit must be an individual to be eligible for the abatement. The application will be in a form and format and by a deadline determined by the Commissioner. An applicant will be eligible for a waiver if the application demonstrates that:

- A. One or more of the partners or members is a law enforcement officer and there is an imminent or ongoing security concerns threat which necessitates ownership by a limited liability company or a limited partnership because disclosure of an individual's residence could reasonably put the individual in danger; and
- B. the dwelling unit is not used for commercial purposes; and
- C. the dwelling unit serves as the primary residence of one or more of the partners or members; and
- D. the partners or members that reside in the dwelling unit personally pay all of the cooperative maintenance fees, property taxes and other costs associated with the property's ownership.

(2) An application must be filed on or before December 1 of the current tax year in order to be eligible for the abatement in the succeeding tax year. In order to be eligible to receive the abatement in a given tax year a waiver must be granted and in effect as of the taxable status date applicable to the tax year. The approved waiver must be submitted by the applicant to their condominium or cooperative board so that it can be submitted with the abatement application.

(3) An approved waiver is in effect for a term of one year. The applicant must submit an annual waiver renewal application to the Commissioner for approval. The applicant will be eligible for a renewal of the waiver if the applicant demonstrates either that the security threat that existed at the time of the initial application is still in existence or that there is a different security threat which necessitates ownership by a limited liability company or limited partnership.

(4) The Commissioner may request additional information if the Commissioner deems such information relevant to an application or renewal application. Such additional information will be provided within sixty days of the request. The Commissioner may deny an application for a waiver. The Commissioner will inform the applicant of the reasons for the denial in a written notice and advise the applicant that it has the right to appeal the denial. The appeal must be submitted to the Commissioner or his or her designee within 15 business days of the mailing of the notice.

Section 3. Subdivision (c) of section 50-06 of Chapter 50 of Title 19 of the Rules of the City of New York is amended to read as follows:

(c) Ownership of dwelling unit by entity other than an individual. Notwithstanding any other provision of these rules, for purposes of this chapter and § 467-a of the Real Property Tax Law, a dwelling unit can be the primary residence only of individuals, and cannot be the primary residence of a corporation, limited liability company, partnership or any other entity unless a waiver is granted pursuant to subdivision (d) of section 50-05.