

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given that pursuant to section 485-x of the 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 amending chapter 63 of Title 28 of the Rules of the City of New York, which implemented the Affordable Neighborhoods for New Yorkers Tax Incentive program adopted by the New York State Legislature in Chapter 56 of the Laws of 2024. The adopted rule establishes the amount of a penalty for failure to file a timely program application registration form. This rule will take effect immediately pursuant to a determination made pursuant to Section 1043(f)(1)(d) of the City Charter.

A notice of proposed rulemaking was published in the City Record on February 7, 2025. A public hearing was held on March 13, 2025.

Acting Commissioner Ahmed Tigani

April 8, 2025.

Statement of Basis and Purpose of Proposed Rule

Statutory Background

In 2024, the Legislature amended the New York State Real Property Tax Law (“RPTL”) by adding a new section 485-x to provide exemptions from real property taxes to housing developments that meet certain affordability thresholds. That legislation (the “Act”) created the Affordable Neighborhoods for New Yorkers Tax Incentive program (“ANNY Program Benefits” or the “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 Program in all areas other than construction wages and prevailing wages, about which the Comptroller has authority to promulgate rules.

In accordance with 485-x(16), prospective applicants must file a form with HPD stating their intention to apply for ANNY Program Benefits and will be subject to a penalty not to exceed 100% of the application filing fee for failure to do so. The adopted rule amendments establish the penalty as 25% of the application filing fee for projects that commenced before April 20, 2024, the effective date of the Act, and 50% of the application filing fee for projects that commenced on or after April 20, 2024.

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. This proposed rule was not reviewed pursuant to Charter section 1043(d) because it is exempt from such review pursuant to Charter section 1043(d)(4)(ii).

This rule will take effect immediately pursuant to a determination made pursuant to Section 1043(f)(1)(d) of the City Charter.

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 one. Subdivision (a) of section 63-02 of Title 28 of the Rules of the City of New York is amended to read as follows:

(a) No Application shall be filed with respect to any Rental Project or Homeownership Project that failed to file the Applicant Registration Form and did not pay [the penalty imposed by the Agency],² in accordance with subdivision 16 of the Act, either (1) for Eligible Multiple Dwellings with a Commencement Date before April 20, 2024, a penalty of twenty-five percent of the non-refundable filing fee imposed by the Act, or (2) for Eligible Multiple Dwellings with a Commencement Date on or after April 20, 2024, a penalty of fifty percent of the non-refundable filing fee imposed by the Act.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

I hereby find and represent to the Mayor that there is a substantial need for the implementation, immediately upon its final publication in the City Record, of a New York City Department of Department of Housing Preservation and Development rule to establish the penalty amount for applicants for Affordable Neighborhoods for New Yorkers (ANNY) tax exemption benefits who fail to timely file an Applicant Registration Form in accordance with Real Property Tax Law Section 485-x(16). This rule is necessary because applicants who fail to submit the form must pay the penalty along with their ANNY Program benefits application, and such applications must be filed no later than twelve months after completion of construction, a deadline many projects are already facing. If the penalty is not paid, HPD cannot process a project's ANNY Program benefits application.

As § 485-x authorized a penalty amount of up to 100% of the application fee, a rule is necessary to codify an exact penalty amount. Therefore, this rule amendment to chapter 63 of Title 28 of the Rules of the City of New York is necessary to establish a penalty amount of 25% of the application fee for Eligible Multiple Dwellings that commenced before the effective date of the law that established ANNY Program benefits (April 20, 2024) and a penalty amount of 50% of the application fee for those that commenced construction on or after April 20, 2024. Delaying implementation of this rule would foreseeably impact a project's ability to apply for ANNY Program benefits and undermine the necessary development of more affordable housing for New Yorkers.

Therefore, I find pursuant to Charter Section 1043(f)(1)(d) that there is a substantial need for this rule's earlier implementation.

/s/ Ahmed Tigani
Ahmed Tigani, Acting Commissioner
New York City Department of Housing Preservation and Development

APPROVED:

/s/ Eric Adams

Eric Adams

Mayor