

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development by Section 1043 and 1802 of the City Charter and New York State Real Property Tax Law section 421-a (1-15) that the Department of Housing Preservation and Development is adopting amendments to chapter 6 of title 28 of the Rules of the City of New York to make changes to the distribution requirements for affordable units in buildings receiving tax benefits under New York State Real Property Tax Law section 421-a (1-15) that commenced construction on or after June 15, 2015.

A notice of proposed rulemaking was published in the City Record on February 7, 2018. A public hearing was held on March 13, 2018. Written regarding the rules were received in accordance with the notice published in the City Record or electronically through NYC RULES at <http://rules.cityofnewyork.us/>. Comments were made available to the public at 421-a Customer Service Conference Room No. 8-CO9, 8th Floor, 100 Gold Street, between 10:00 am – 4:00 pm on weekdays.

Statement of Basis and Purpose

Section 421-a of the Real Property Tax Law (RPTL) provides real property tax exemptions for eligible new multiple dwellings. In New York City, HPD determines eligibility for these exemptions and is responsible for ensuring that applicants for the exemption comply with eligibility requirements.

Chapter 20 of the Laws of 2015, which took effect on June 15, 2015, prohibits the isolation of affordable units to a specific floor or area of a building and requires shared common entrances and common areas for all residents. This prohibition is what is known as the “distribution requirement”. The law defined common entrances as “any area regularly used by any resident for ingress and egress from a multiple dwelling.”

HPD adopted rules implementing these requirements on May 27, 2016. When the Affordable New York Housing Program was enacted by the State Legislature in 2017, it contained the same distribution requirement. HPD’s adopted rules implementing the Affordable New York Housing Program included an additional ground for waiver of the distribution requirements based upon a story containing a single dwelling unit. HPD is now adopting amendments to the distribution requirements for the former 421-a program to reflect this same additional ground for waiver and to clarify that the waiver is available for eligible buildings receiving benefits under either program.

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 1. Subparagraph (i) of paragraph 4 of subdivision (b) of section 6-09 of the Rules of the City of New York is amended to read as follows:

(i) If a story contains one or more GEA 60% AMI units or GEA SGA units, not less than thirty percent of the dwelling units on such story shall be units that are neither GEA 60% AMI units nor GEA SGA units, provided, however, that the Department may waive such requirement where either (A) the GEA 60% AMI units and GEA SGA units comprise more than fifty percent of the units in a multiple dwelling, or (B) there is only one dwelling unit on a story in a multiple dwelling;

Commissioner Maria Torres-Springer
March 30, 2018