

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption of Amendments to Rules Governing Certification of Costs in J-51 Program

Notice is hereby given that pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development (“HPD”) by Section 1802 of the New York City Charter, Section 489 of the New York State Real Property Law, and Section 11-243 of the Administrative Code of the City of New York, and in accordance with Section 1043 of the City Charter, HPD is amending its rules governing the certification of the cost of the conversion, alterations or improvements of a multiple dwelling that is eligible for tax benefits under the J-51 program.

A notice of proposed rulemaking was published in the City Record on September 8, 2017. A public hearing was held on October 10, 2017.

Statement of Basis and Purpose

Real Property Tax Law §489 authorizes municipalities to enact local laws providing a reduction in real property taxes as an incentive to rehabilitate multiple dwellings. The City of New York has enacted such a local law in Administrative Code §11-243 (“J-51”). HPD determines eligibility for J-51 tax benefits and is amending Chapter 5 of Title 28 of the Rules of the City of New York (the “J-51 Rules”) in order to conform the proof of the applicant’s actual expenditures required as part of the J-51 application to the relevant professional standards.

Certified public accountants (“CPAs”) must meet the professional standards promulgated by the Financial Accounting Standards Board and by the American Institute of Certified Public Accountants (“CPA Professional Standards”). The current J-51 rules require certification of cost in accordance with generally accepted auditing standards; however, the terms “certification” and “generally accepted auditing standards” are defined under CPA Professional Standards in a manner inconsistent with the type of cost evidence HPD requires.

The amendments allow CPAs to provide HPD with satisfactory evidence of the J-51-related cost of construction while avoiding any conflict with professional standards by using terms consistent with CPA Professional Standards for “attest engagements,” which oblige CPAs to follow specified government standards, guides, procedures, statutes, rules, and regulations, as well as applicable attestation standards.

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. Section 5-05(c)(2)(i) of chapter 5 of title 28 of the Rules of the City of New York is amended to read as follows:

(i) a [certification] report by an independent certified public accountant [of] on the cost of the Conversion, Alterations or Improvements, in a form prescribed by the Office and in accordance with [generally accepted auditing standards] standards approved by the Office and based upon the books and records of the owner provided that the original records are retained as set forth in §5-07(e)(3) and §39-06(a) and are available for audit purposes; or

Commissioner Maria Torres-Springer
October 24, 2017