

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given that pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development (“HPD”) by Sections 1043 and 1802 of the New York City Charter and chapter 18 of title 26 of the Administrative Code of the City of New York, HPD is adding a new Chapter 58 to Title 28 of the Rules of the City of New York. A notice of proposed rulemaking was published in the City Record on April 19, 2021. A public hearing was held on June 4, 2021.

Statement of Basis and Purpose

Local Law 64 of 2018 enacted a new chapter 18 of title 26 of the Administrative Code of the City of New York (“Act”). The Act requires HPD to create and maintain a “Housing Portal” website, through which information about “Affordable Units” must be submitted by owners and may be accessed by the public and through which such affordable housing units may be marketed. The Act provides that HPD shall promulgate certain rules related to the administration and enforcement of the Act. HPD is adopting a new chapter 58 of title 28 of the Rules of the City of New York (“Housing Portal Rules”) to implement the Act.

The Act requires HPD to promulgate rules to establish the manner by which Affordable Unit information shall be provided to HPD and the manner by which a user of the Housing Portal verifies that such user is a lawful leaseholder or owner of an Affordable Unit. The Act also requires HPD to promulgate rules establishing the criteria for determining whether a complaint that an owner has violated the Act is credible and the manner by which HPD verifies the allegations in such a complaint. The Act also authorizes HPD to specify by rule additional categories of information that must be submitted concerning Affordable Units. Furthermore, the Act provides that HPD may establish the manner in which Affordable Units may be offered for rent or sale through the Housing Portal. The adopted rules provide for all of the foregoing.

HPD’s authority for these rules is found in sections 1043 and 1802 of the New York City Charter and chapter 18 of title 26 of the Administrative Code of the City of New York.

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. Title 28 of the Rules of the City of New York is amended by adding a new Chapter 58 to read as follows:

Chapter 58 HOUSING PORTAL

§ 58-01 Definitions. As used in this chapter, the following terms have the following meanings. Capitalized terms not specifically defined in this chapter have the meanings set forth in the Act.

Act. "Act" means chapter 18 of title 26 of the administrative code of the city of New York, as may be amended.

Credible Complaint. "Credible Complaint" means a complaint alleging that an owner has violated any provision of the Act with respect to an Affordable Unit that the Department has determined to be credible in accordance with subdivision a of section 58-05 of this chapter.

Unit Information. "Unit Information" shall mean any combination of Full Unit Information, Limited Unit Information, or Offered Unit Information.

§ 58-02 Marketing.

(a) An Affordable Unit that is offered for rent or sale through the Housing Portal must be offered for rent or sale exclusively through the Housing Portal.

(b) An Affordable Unit that is offered for rent or sale through the Housing Portal must be rented or sold pursuant to such marketing guidelines as may be published by the Department.

§ 58-03 Unit Information.

(a) In addition to the information specifically enumerated in the Act, the term "Full Unit Information" must also include the following information:

(1) the name of any lawful leaseholder or owner of such unit, or lawful owner of shares of a cooperative corporation that entitle the shareholder to occupancy of such unit under a proprietary lease;

(2) a statement as to the reason for turnover of such unit, if applicable; and

(3) the household size of such unit.

(b) Limited Unit Information shall not include any of the information required by subdivision a of this section.

(c) Full Unit Information and Offered Unit Information must be submitted under penalty of perjury with a sworn statement by the owner that such information is in compliance with all applicable regulatory agreements and legal requirements.

(d) Full Unit Information and Offered Unit Information must be submitted to the Department through the Housing Portal, or through such alternative software application that interfaces with the Housing Portal as the Department will designate.

(e) Full Unit Information must be submitted to the Department no less than annually.

(f) Offered Unit Information must be submitted immediately upon the owner becoming aware of such unit's anticipated vacancy date.

§ 58-04 Lawful leaseholder or owner verification. In order to verify that a Housing Portal user is the lawful leaseholder or owner of an Affordable Unit, or is a lawful owner of shares of a cooperative corporation that entitle the shareholder to occupancy of an Affordable Unit under a proprietary lease, such user must complete the designated form provided by the Department on the Housing Portal and attach a copy of the lease, deed, or any other substantiating documentation. The Department will exercise its discretion in determining whether a Housing Portal user has satisfied this verification requirement.

§ 58-05 Violations.

(a) Credibility determinations.

The Department will determine the credibility of complaints alleging that an owner has violated any provision of the Act with respect to an Affordable Unit. In determining the credibility of such complaints, the Department will consider any accompanying documentation attesting that an owner has violated any provision of the Act, corroborating testimony or any additional information the Department deems relevant.

(b) Verification of allegations.

(1) The Department will conduct an investigation of any Credible Complaint.

(2) Upon the completion of the investigation of a Credible Complaint, the Department will determine whether there is reasonable cause to believe a violation of the provisions of the Act or of this chapter have occurred.

Commissioner Louise Carroll
June 21, 2021