

## 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 Sections 1043 and 1802 of the City Charter, and New York State Real Property Tax Law Section 421-a** that the Department of Housing Preservation and Development is adopting amendments to Chapter 50 of Title 28 of the Rules of the City of New York.

**A notice of proposed rulemaking was published in the City Record on December 19, 2017.** A public hearing was held on January 23, 2018. Written comments 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 within a reasonable time after the hearing at the 421-a Customer Service Conference Room 8-CO9, 8<sup>th</sup> 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, including the requirement that the applicant's building service employees receive a prevailing wage.

Chapter 20 of the Laws of 2015, which took effect on June 15, 2015, adopted a new extended benefit available to multiple dwellings that commenced construction prior to July 1, 2008, and that had been granted either 25 or 20 years of Section 421-a benefits prior to June 15, 2015, for making at least 20% of their dwelling units affordable to persons or families of low income. This extended benefit, provided in subdivision 17 of RPTL Section 421-a, authorizes a 50% exemption from real property taxation for either an additional 10 or 15 years. Those properties that had been granted 25 years of benefit are eligible for an additional 10 years; those that had been granted 20 years of benefit are eligible for an additional 15 years. To get this additional benefit, all residential tax lots in such multiple dwellings must be operated as rentals. They also must maintain the affordability of the original affordable units at the levels originally required (typically 80% of Area Median Income ("AMI")), as well as restricting an additional 5% of their dwelling units to be affordable to individuals or families whose household income is at or below 130% of AMI.

The extended benefit starts on the later of either the expiration date for the original Section 421-a real property tax exemption or the date on which a restrictive declaration is recorded against the property. Buildings that receive the extended benefit must pay prevailing wages to building service employees while they are receiving the extended benefit unless (a) they contain less than 30 units, or (b) all of the dwelling units are affordable housing units and at least 50%, upon initial rental and subsequent rentals following a vacancy, are affordable to and restricted to occupancy by individuals or families at or below 125% of AMI.

The fiscal officer, which, in New York City, is the Comptroller, is also the designated enforcement authority over the building service employees' prevailing wage requirements for buildings receiving Section 421-a (17) extended benefits. HPD's amendment to chapter 50 amends the rules to reflect the Comptroller's enforcement authority under subdivision 17 of the 421-a Statute.

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. The first paragraph of Section 50-01 of Chapter 50 of Title 28 of the Rules of the City of New York is amended, and a new definition of "Extended Affordability Act" is added in alphabetical order, to read as follows:**

Definitions: As used in this chapter, the following terms shall have the following meanings. Capitalized terms that are not specifically defined in this chapter shall have the meanings set forth in the Act (with respect to properties receiving benefits pursuant to such act), the New 421-a Act (with respect to properties receiving benefits pursuant to such act), the Extended Affordability Act (with respect to properties receiving benefits pursuant to such act), or [in] the Minimum Average Hourly Wage Act, as relevant.

Extended Affordability Act. "Extended Affordability Act" shall mean paragraph (g) of subdivision 17 of Section 421-a of the Real Property Tax Law.

**Section 2. Section 50-06 of Chapter 50 of Title 28 of the Rules of the City of New York is amended to read as follows:**

§ 50-06 Agency Determination of Prevailing Wage Exemption. An Applicant who requests a determination of exemption from the Prevailing Wage Requirement pursuant to the Act, [or] the New 421-a Act, or the Extended Affordability Act, as applicable, must submit all of the documentation necessary to prove that:

(a) with respect to a multiple dwelling that is not receiving benefits pursuant to [subdivision] subdivisions sixteen or seventeen of Real Property Tax Law § 421-a, at least fifty percent of the dwelling units in such Applicant's building are 125% Units, including, but not limited to, (i) with respect to a multiple dwelling owned and operated as a rental, the initial rents for such 125% Units, the income certifications for the initial occupants of such 125% Units, and proof that the building is required to maintain such 125% Units during the entire period of Post-Construction Benefits, and, (ii) with respect to 125% Units in a multiple dwelling owned and operated as a condominium or cooperative development by individual condominium unit owners or shareholders, the initial unit sale prices and the income certifications for all of the initial purchasers of such 125% Units; [or]

(b) with respect to an Eligible Multiple Dwelling that is receiving benefits pursuant to subdivision sixteen of Real Property Tax Law § 421-a, all of the dwelling units in such Eligible Multiple Dwelling are Affordable Housing Units, and at least fifty percent of the Affordable Housing Units, upon initial rental and upon each subsequent rental after a vacancy during the Restriction Period or the Extended Restriction Period, are 125%

Units, including, but not limited to, the initial rents for such Affordable Housing Units and 125% Units, the income certifications for the initial occupants of such Affordable Housing Units and 125% Units, and proof that the Eligible Multiple Dwelling is required to maintain such Affordable Housing Units and 125% Units during the entire Restriction Period or Extended Restriction Period, as applicable; or

(c) with respect to an Extended Affordability Property that is receiving benefits pursuant to subdivision seventeen of Real Property Tax Law § 421-a, all of the dwelling units in such Extended Affordability Property are Affordable Housing Units, and at least fifty percent of the Affordable Housing Units, upon initial rental and upon each subsequent rental after a vacancy during the Extended Affordability Period, are 125% Units, including, but not limited to, the initial rents for such Affordable Housing Units and 125% Units, the income certifications for the initial occupants of such Affordable Housing Units and 125% Units, and proof that the Extended Affordability Property is required to maintain such Affordable Housing Units and 125% Units during the entire Extended Affordability Period.

Commissioner Maria Torres-Springer  
February 6, 2018