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Attorney General



VICKI BEEN
Commissioner

August 25, 2015

VIA U.S. MAIL

[Sponsor]
[Sponsor Address]

[Sponsor]
[Sponsor Address]

Re: [Plan Name]
[Plan Address] (“Property”)
Offering Plan File No. [CDxxxxxx] (“Condominium Plan”)

Dear Sponsor or Property Owner:

The Office of the New York Attorney General (“NYAG”), the Tenant Protection Unit (“TPU”) of the New York State Division of Housing and Community Renewal (“DHCR”) and the City of New York Department of Housing Preservation and Development (“HPD”) have determined that you are in violation of the rent registration requirements of Section 421-a of the Real Property Tax Law of New York (“421-a” or “the statute”).

NYAG, TPU and HPD have determined that:

1. The Property is receiving a 421-a partial exemption from real property taxation;
2. In the application for the 421-a tax exemption, it was represented to HPD that the Property would be owned as a condominium and was therefore exempt from the statute’s rent registration requirements;
3. No condominium plan submitted to NYAG in connection with the Property has been consummated, as that term is defined in Section 20.1(c)(6) of Title 13 of the New York Codes, Rules and Regulations; and

4. You have not registered the building or the dwelling units with DHCR as they have become occupied, as required by Real Property Tax Law Section 421-a(2)(f).

You have a ***one-time, non-negotiable*** opportunity to cure these violations. If you wish to avail yourself of this opportunity, you must take action to correct your filings with NYAG, HPD and DHCR (the “Compliance Program”). You may wish to consult an attorney.

Any property owner that fails to take the actions outlined in this letter may be subject to penalties, damages, and disgorgement of past tax benefits, as well as revocation of its offering plan by NYAG, revocation of tax exemptions by HPD, and enforcement action by TPU.

To the extent that any housing accommodation at the Property is occupied by residential tenants, ***you are directed to comply*** with the protections contained in the Rent Stabilization Code, 9 N.Y.C.R.R. Part 2524 (which prohibits you from removing or attempting to remove any residential tenant from the housing accommodation by action to evict or other means, unless such removal is permitted by law) and 9 N.Y.C.R.R. Section 2525.5 (which prohibits you from interfering with or disturbing the comfort, repose, peace or quiet of any tenant in his use of the housing accommodation, with the intent to cause the tenant to vacate the housing accommodation or to surrender or waive any rights under the Rent Stabilization Law). ***If you fail to abide by this direction, you forfeit your opportunity to participate in this Compliance Program.***

TO CURE YOUR VIOLATION AND AVOID FURTHER ENFORCEMENT ACTION, YOU MUST DO THE FOLLOWING:

STEP 1 Provide notice to residential tenants at the Property that their dwelling units are rent stabilized.

By Friday, October 2, 2015, provide notice to all residential tenants at the Property that the dwelling units they currently occupy are rent stabilized.

You must use the enclosed notice. You may not edit the notice other than the addition of the name and address of each residential tenant at the top of the notice.

The notice must be delivered by hand to each residential tenant or left under the door to each occupied residential unit. The notice must also be posted in the building lobby.

STEP 2 Affirm that you intend to participate in the Compliance Program, including the requirement that you register dwelling units at the Property with DHCR, and submit certain documents:

By Friday, October 30, 2015, send to NYAG:

- (a) A signed, notarized affidavit by the Property owner attesting that you intend to participate in the Compliance Program, including the requirement to register the dwelling units at the Property as rent stabilized with DHCR, and that residential tenants have been notified that the dwelling units at the Property are rent stabilized.

You must use the form affidavit provided herein. You may not edit the affidavit other than to add the missing information as indicated.

- (b) A notarized rent roll for the Property for each year in which any dwelling unit was occupied.
- (c) A copy of the notice provided to *each* residential tenant of the Property in Step 1, above.

You must submit these documents to NYAG via an email addressed to:

421aCompliance@ag.ny.gov. Please use the address of the Property as the subject line of the email.

STEP 3 Correct your prior filings with NYAG.

- (a) Abandon any condominium plan for the Property.**

By Friday, October 30, 2015, submit to NYAG a completed Form RS-3, “Notification to the Attorney General of the State of New York of Abandonment of Offering Plan.” A copy of Form RS-3 is enclosed. The form is also available on the NYAG website at <http://www.ag.ny.gov/real-estate-finance-bureau/forms>.

- (b) Terminate any declaration of condominium recorded as to the Property.**

To terminate a declaration:

- (i) By Friday, October 30, 2015, submit to NYAG an application for a Letter of No Objection to Termination of Condominium Declaration (“Letter of No Objection”); and
- (ii) Within seven (7) calendar days from your receipt of the Letter of No Objection from NYAG, record the termination of condominium declaration with the City of New York Department of Finance, Office of the City Register.

Instructions on how to submit an application for a Letter of No Objection are detailed in the enclosed guidance document, “Letters of No Objection to Termination of Condominium Declaration.” The guidance document is also

available on the NYAG website at <http://www.ag.ny.gov/real-estate-finance-bureau/memos/effective-refb-policy-memoranda#L>.

You must submit the completed RS-3 Form and, if applicable, your application for a Letter of No Objection via email to: 421aCompliance@ag.ny.gov.

If you comply with Steps 1, 2 and 3, NYAG will take no further action against you relating to this 421-a violation. However, HPD and/or TPU may take further action for noncompliance with Steps 4 through 7, as detailed below.

STEP 4 Submit to HPD the information necessary to calculate the HPD-approved rent for the Property.

By Friday, October 30, 2015, submit to HPD all documentation required to amend or supersede the prior filings made in connection with the Property to reflect that the Property is owned and managed as a rental building as opposed to a condominium, and such rental buildings must be rent-stabilized at rents approved by HPD. These documents must include:

- (a) a copy of the completed Form RS-3, Notification to the Attorney General of the State of New York of Abandonment of Offering Plan;
- (b) a letter to HPD explaining the pertinent facts related to the project's change from a condominium to a rental building;
- (c) the rental forms associated with the 421-a preliminary application, which are available at <http://www1.nyc.gov/assets/hpd/downloads/pdf/421a-forms.pdf>;
- (d) the 421-a Rent Calculator spreadsheet, available at <http://www1.nyc.gov/assets/hpd/downloads/excel/421a-Rent-Calculator.xls>; and
- (e) the 421-a Final Application correctly representing the current project, available at <http://www1.nyc.gov/assets/hpd/downloads/pdf/421a-Final-Application-packet.pdf>.

If you fail to comply, HPD may revoke any future benefits and seek to recapture the value of the benefits already received, and TPU may take further action as detailed below.

STEP 5 Register all dwelling units at the Property with DHCR as rent stabilized.

New York State Real Property Tax Law Section 421-a(2)(f) and Rent Stabilization Code Section 2520.11(p) requires housing accommodations operating as rental housing that are receiving a property tax exemption to be registered with DHCR.

- (a) Within seven (7) calendar days of your receipt of HPD-approved rents for the Property, complete initial registration forms for the first year that your building and its units became subject to rent regulation, which is the year the units were first rented. There are three forms that must be completed. Instructions and the forms can be found at: <http://www.nyshcr.org/Rent/reginsinitial.htm>.

Under Rent Stabilization Code Section 2521.1(g), the rent for the initial registration, which is the first year that the units were rented, must be the **lower** of: (i) the HPD-approved rent; or (ii) the monthly rent charged and paid by each tenant for that year.

Mail the completed forms to:

Division of Housing and Community Renewal
Processing Services Unit
38-40 State Street
Albany, NY 12207

- (b) Thirty (30) calendar days after you mail the initial registration forms to Albany, DHCR will have processed your initial registration forms. At that time, request access to DHCR's online Owner Rent Regulation Application system. You must use this system to register the remaining outstanding annual rent registrations.

To request access to the online Owner Rent Regulation Application system, email PSU@nyshcr.org and include your full name, company name (if applicable), mailing address and phone number. A User ID will be emailed to you.

- (c) No later than forty-five (45) calendar days after you mailed the initial registration forms to Albany, register the remaining outstanding annual rent registrations, if any, for the Property online with the Owner Rent Regulation Applications System.

Information and instructions on the Owner Rent Regulation Applications system and the Annual Rent Registration Online (ARRO), can be found at:

<http://www.nyshcr.org/Apps/ORAOwner/>

<http://www.nyshcr.org/Apps/RentReg/>

The rent you register for each outstanding annual registration must comply with the yearly rates set by the New York City Rent Guidelines Board for the outstanding registration year and any permissible increases allowed under the Rent Stabilization Law and Code. After you determine the initial rent amount under (a) above, the rent for the following year must be based on this amount, plus any lawful increases. The rents for any subsequent years must be based on the prior year's rent and any permissible increases. The rent you register must be in accordance with these laws as

they apply to the relevant registration year and any other lawful increases that are permitted under state law.

A rent calculator made available by the Rent Guidelines Board is at:

<http://www.nycrgb.org/html/guidelines/vacancy.html>

For further information and guidance, please review the fact sheets on DHCR's website at <http://www.nyshcr.org/Rent/FactSheets/index.htm#fac1>, and specifically fact sheets #1 and #26. Those fact sheets can be found at:

<http://www.nyshcr.org/Rent/FactSheets/orafac1.pdf>

<http://www.nyshcr.org/Rent/FactSheets/orafac26.pdf>

If you properly comply with all of the rent registration requirements, HPD will not seek revocation of your 421-a benefits.

However, if you fail to properly register the units and the appropriate rent amounts at the Property according to the directions above, HPD may still seek revocation of your 421-a benefits, and TPU may proactively seek an administrative order that will effectively freeze the rents at the Property and prohibit you from collecting any rent increases until you comply.

TPU may also initiate overcharge proceedings against you for collecting unlawful rent amounts. If you are found to have engaged in such behavior you may be subject to treble damages.

STEP 6 Provide rent stabilized leases and riders to all residential tenants at the Property.

Within sixty (60) calendar days from your completion of the annual registrations via the online Owner Rent Regulation Applications system, provide rent stabilized leases and rent stabilization riders to all residential tenants in accordance with the Rent Stabilization Law, Rent Stabilization Code, 421-a, and all other applicable laws and regulations.

The rent stabilized lease and rider can be found at:

<http://www.nyshcr.org/Forms/Rent/rtp8.pdf>

<http://www.nyshcr.org/Forms/Rent/ralr1.pdf>

The legal regulated rent that you list in the rent stabilized lease **must** be based on the lawful rent from the prior year, plus any applicable lawful increases that could be added to that rent and **must** be the same rent listed in the DHCR registration. If the rent you are currently charging your tenant is higher, you **must** lower the rent to the correct lawful amount. Please review Step 6 and any Fact Sheets as to how to calculate the rent and permissible increases.

As long as the dwelling units at the Property remain subject to the Rent Stabilization Law and the Rent Stabilization Code (which period is set out in Real Property Tax Law Section 421-a(2)(f)): (i) any subsequent rent increases shall be governed by the Rent Stabilization Law and Code and the Rent Guidelines Board; and (ii) you must continue to submit to DHCR annual registrations for each dwelling unit at the Property and summary registrations for each year.

STEP 7 Provide each residential tenant at the Property a copy of the registration(s) applicable to that tenant's unit.

Within sixty (60) calendar days from your completion of the annual registrations via the online Owner Rent Regulation Applications system, provide each residential tenant with copies of the registration(s) pertaining to that tenant's unit.

You may print a copy of the registration pertaining to any unit from the ARRO system.

SUMMARY CHECKLIST:

You must do the following to take advantage of the Compliance Program:

1. By Friday, October 2, 2015, distribute notices to the residential tenants in the Property (Step 1); and
2. By Friday, October 30, 2015, send to NYAG:
 - (a) The affidavit regarding your participation in the Compliance Program (Step 2);
 - (b) The notarized rent rolls for the Property (Step 2); and
 - (c) Copies of the notices sent to residential tenants in the Property (Step 2); and
3. By Friday, October 30, 2015, send to NYAG
 - (a) Form RS-3 (Step 3); and
 - (e) The application for a Letter of No Objection (Step 3), if applicable; and
4. By Friday, October 30, 2015, provide to HPD corrected or amended filings for the Property (Step 4); and
5. Within seven (7) calendar days from receipt of the Letter of No Objection from the NYAG, complete the termination process by recording the termination of declaration with the Department of Finance (Step 3); and
6. Within seven (7) calendar days from receipt of the approved rent from HPD, register the initial rent for all occupied dwelling units at the Property with DHCR (Step 5); and
7. Within forty-five (45) calendar days after having mailed the initial registration forms to Albany, register the remaining outstanding annual rent registrations, if any, online with the Owner Rent Regulation Applications System (Step 5); and
8. Within sixty (60) calendar days of the Property being registered with DHCR, provide rent stabilized leases to all residential tenants at the Property (Step 6); and
9. Within sixty (60) calendar days of the Property being registered with DHCR, provide each residential tenant at the Property a copy of the registration(s) applicable to that tenant's unit (Step 7).

Nothing herein shall be construed to be a waiver of, or limitation on, a tenant's rights under the Rent Stabilization Law and/or Code.

If you have any questions or need additional forms consult the NYAG website at <http://www.ag.ny.gov/421a-compliance-program>.

Very truly yours,



Eric Enderlin
Deputy Commissioner
HPD



Gregory C. Fewer
Bureau Chief
TPU



Erica F. Buckley
Bureau Chief
Real Estate Finance Bureau

Enclosures:

- (1) Form Notice to Tenants
- (2) Form Affidavit
- (3) Form RS-3
- (4) NYAG guidance document, "Letters of No Objection to Termination of Condominium Declaration"
- (5) NYAG guidance document, "Occupied Buildings and Part 20 Offerings"

NYAG:[ER/NM/RS/JR]