



**The City of New York  
Manhattan Community Board 8**

**Housing Committee  
Stanley Isaacs Community Center  
415 East 93<sup>rd</sup> Street, (First-FDR Drive)  
Dining Room A & B  
Monday, July 10, 2017  
6:30 P.M.  
Minutes**

**CB8 members present:** Loraine Brown\*, Barbara Chocky\*, Ed Hartzog\*, Rita Popper\*, Kim Selway\*, Marco Tamayo

**Members of the Public:** Shaye Weaver, Sam Weinberger

\*Housing Committee member

The Meeting was called to order at 6:40 p.m.

**1. Inclusionary Housing Project – 505 East 86<sup>th</sup> Street.**

The Committee and public were updated on the changes to the project that have occurred since the applicant made their presentation on May 23. As noted in the minutes from the May 23 meeting, the committee had reached out to the applicant to obtain additional information about the project – i.e., the Powerpoint presentation and specifics regarding proposed rents for the inclusionary units. On June 20, the applicant's attorneys advised the committee that the project had been dramatically changed by HPD – i.e., new rules being proposed by HPD regarding inclusionary housing and § 421-a of the Real Property Tax Law (see item 2 below).

Specifically, the new rules being proposed by HPD will alter some of the underlying economic assumptions and rules governing this and other inclusionary housing projects being built in R10 zoning districts. According to the applicant's attorney, there will no longer be 25% inclusionary units – instead, it is possible that there will only be 6% inclusionary housing (with its attendant permanent affordability) and instead a combination of inclusionary and affordable housing (as defined under 421-a) which will comprise the 25% of units – i.e., 35 of 139 new units being built.

It is expected that the applicant will present an amended application at a later date. In anticipation of the next presentation, it was suggested that the committee put together a chart that would assist the committee and members of the public with an analysis of this and future projects. The chart could be presented to the applicant, as well as future applicants, so that they could address some of the standing issues and questions that the members of the committee and public have regarding this and related projects.

It was agreed that the chart will be discussed and reviewed at a later meeting of the committee and discussion then moved to item 2.

## **2. Proposed Rule Changes for Inclusionary Housing Projects receiving 421-a funding.**

On June 30, the Department of Housing Preservation and Development issued new proposed rules for Sections 41-01 and 41-25 of Chapter 41 of Title 28 of the Rules of the City of New York. The proposed rule amendments prohibit newly constructed affordable housing units built to satisfy the requirements for tax exemption benefits pursuant to Real Property Tax Law Section 421-a (16) from generating floor area bonus for buildings other than buildings on the same zoning lot containing such affordable housing units.

For reasons more fully set forth in HPD's "Statement of Basis and Purpose of Proposed Rules," the amendments seek to restore the validity of basic assumptions underlying the 2009 Zoning Text Amendment (i.e., "ZQA-MIH"), adopted by the City Council. In effect, by limiting the zoning bonus that can be generated by such 421-a affordable units to usage on the same zoning lot, buildings that require more floor area will have to provide on-site affordable housing units or off-site affordable housing beyond that already required by the new 421-a program.

The Committee and public discussed some of the unintended consequences of the recent changes to Section 421-a of the Real Property Tax Law, including the use of off-site bonus area generated by the construction of affordable housing units. Indeed, community district 8, because of its financial demographics, is a frequent target of new market rate construction utilizing what are commonly known as "vouchers."

The new rules proposed by HPD address this situation and seek to ensure that more "on-site" affordable housing units are built. This particular rule change directly effects a pending application for inclusionary housing within community district 8 – see above – i.e., the project at 505 East 86<sup>th</sup> Street.

That project and those with similar characteristics and circumstances shaped the committee's discussion and proposed resolution regarding the rule changes and overall policy objectives of HPD.

As such, the following resolution was proposed and discussed by the Committee:

**WHEREAS**, the City Council adopted a Zoning Text Amendment ("ZQA-MIH" – Zoning for Quality, Affordability and Mandatory Inclusionary Housing) to the Zoning Resolution in 2009 to create and support newly constructed affordable housing; and,

**WHEREAS**, Real Property Tax Law § 421-a grants tax exemption benefits for newly constructed affordable housing units that are built pursuant to certain regulations as part of; new construction, substantial rehabilitation, and/or preservation, whether for rental or home ownership units; and,

**WHEREAS**, the Zoning Text Amendment was adopted with the understanding that § 421-a of the Real Property Tax Law and the inclusionary housing program would work together both to encourage on-site affordability and, to ensure that new developments participating in the inclusionary housing program would generate affordable housing units that would not otherwise have been constructed; and,

**WHEREAS**, the State Legislature recently changed the criteria regarding the tax exemption benefits under § 421-a of the Real Property Tax Law and those changes took effect on April 10, 2017; and,

**WHEREAS**, the changes to § 421-a undermine the basic assumptions of the 2009 Zoning Text Amendment regarding its purpose to generate on-site affordable housing; and,

**WHEREAS**, one of the consequences of the changes to § 421-a will be to allow developers to generate bonus floor area through the construction of affordable housing units, on-site, and then to use the same bonus floor area, off-site, as long as the receiving site is within the same community district or in an adjacent community district within a half mile of the receiving site; and,

**WHEREAS**, over the past few years Community District 8 has seen several new developments, utilize “vouchers” from off-site affordable housing units – built outside of Community District 8 (including the Bronx) – to generate bonus floor area for the construction of market rate housing units; and,

**WHEREAS**, the construction of these market rate housing units has very often come at the expense – i.e., demolition – of existing affordable and market rate housing units; and,

**WHEREAS**, the developer, through its attorneys and architects, of a § 421-a Affordable Housing Plan application – pursuant to the inclusionary housing program, for 505 East 86<sup>th</sup> Street, block 1583, Lots 6, 7, 8 and 165 – for 35 inclusionary units in a newly constructed 139 unit 22-story residential building, came before the Housing Committee at its May 23<sup>rd</sup> meeting; and,

**WHEREAS**, the developer, through its attorneys, contacted the Housing Committee after the May 23<sup>rd</sup> meeting and notified it that it would be amending its application in light of recently proposed rule changes, by the Department of Housing Preservation and Development, to the implementation of the new tax exemption benefits under § 421-a Real Property Tax Law; and,

**WHEREAS**, members of the Housing Committee and public expressed reservations and concerns, at the May 23<sup>rd</sup> meeting, regarding the project at 505 East 86<sup>th</sup> Street; and,

**WHEREAS**, on June 30, the Department of Housing Preservation and Development proposed rule amendments to prohibit newly constructed affordable housing units, built to satisfy the requirements for tax exemption benefits pursuant to Real Property Tax Law § 421-a (16) from generating floor area bonus for buildings other than buildings on the same zoning lot containing such affordable housing units; and,

**WHEREAS**, there remain questions surrounding the “net” amount (i.e., “count”) of newly constructed affordable housing units; and,

**WHEREAS**, the committee supports the minimum sized apartments established by the Zoning Resolution; and,

**WHEREAS**, the committee supports the creation of a larger percentage of studios versus more one, two and three-bedroom apartments; and,

**WHEREAS**, the creation of more studios and smaller apartments will generate more affordable housing units that will reach the type of target income families the program seeks to assist; and,

**WHEREAS**, there is a strong desire to ensure that affordable housing units exist in perpetuity, once they are built in the community district; and,

**WHEREAS**, the public and members of the Housing Committee have raised questions regarding the income eligibility of newly constructed affordable housing units, specifically, that residents remain “income eligible” for those units in perpetuity; and,

**WHEREAS**, the public and members of the Housing Committee have shown support for the idea that amenities in newly constructed buildings be free for all residents, or, in the alternative, that amenities be indexed by income, for residents in affordable and market rate housing units in the same building,

**THEREFORE, BE IT RESOLVED**, that Community Board 8, Manhattan supports the Department of Housing Preservation and Development’s newly proposed rule amendments, to restore the validity of the assumptions, surrounding the 2009 Zoning Text Amendment to the Zoning Resolution, to limit the zoning bonus that can be generated by such 421-a affordable housing units to usage on the same zoning lot and buildings that require more floor area will have to provide on-site affordable housing units or off-site affordable housing beyond that already required by the new 421-a program; and,

**BE IT FURTHER RESOLVED**, that all affordable housing units created pursuant to these programs be affordable in perpetuity; and,

**BE IT FURTHER RESOLVED**, that the residents of these affordable housing units remain income eligible in perpetuity; and,

**BE IT FURTHER RESOLVED**, that all amenities created as part of the construction of these new affordable units be provided to all residents of the building for free, or, in the alternative, that the fee for the use of amenities be indexed, based on income; and,

**BE IT FURTHER RESOLVED**, that the Chair of Community Board 8, will bring this resolution to the next borough board meeting, following the July 19 meeting of Community Board 8, and propose its adoption by the full borough board.

The Committee passed the Resolution 6-0-0 (Yes – Brown, Chocky, Hartzog, Popper, Selway, Tamayo).

**Old Business.**

There was no old business.

**New Business.**

There was no new business.

The meeting was adjourned at 7:50 p.m.

Respectfully submitted,  
Ed Hartzog and Loraine Brown, Co-Chairs, Housing Committee