

Developers: City Exemptions May Disappear

For over 30 years, the cornerstone of New York City economic development policy rested squarely on real estate tax exemption and abatements. Property owners who constructed new residential buildings or rehabilitated existing buildings always could rely on substantial tax incentives from the myriad of real estate tax incentive programs offered by the City through the Department of Housing Preservation and Development. The array of benefit programs for residential property owners includes: the 421-a program for newly constructed multiple dwellings, the 421-b program for new or rehabilitated one- to two- family dwellings, the J51 exemption/abatement program for rehabilitation of existing buildings and the 421-g program for conversions of commercial to residential buildings in Lower Manhattan. All these programs have fallen into jeopardy.



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Each program was created by state legislation establishing eligibility criteria and extent and duration of benefits. The programs provide powerful economic development tools, allowing the City to target specific geographical areas deemed to be most in need of residential construction incentives.

The legislation also contains sunset provisions providing fixed dates on which the programs will expire, absent renewal legislation. These programs are routinely expanded, contracted or eliminated altogether in response to the strength and vitality of the residential real estate marketplace, various political considerations and the perception of success in accomplishing the legislature's stated objectives.

The 421-a program, originally created in 1971, acted as an incentive for the construction of new multiple dwellings. The program currently excludes various areas of the City from benefits unless affordable housing units are created. The excluded areas generally include those parts of Manhattan between 14th and 96th streets and newly re-zoned areas of Greenpoint and Williamsburg in Brooklyn. Now, only those projects that commence construction on or before Dec. 31, 2007, pursuant to a new building or alteration permit, qualify for benefits, since the 421-a program is currently scheduled to sunset that day. Rumors persistently circulate indicating that the program will either be allowed to expire or be renewed but apply only

to so-called 80/20 subsidized housing, while eliminating benefits for new condominium development.

The 421-b program began in 1978 to encourage the development of newly constructed or reconstructed owner-occupied one- and two-family dwellings, expired on June 30, 2006. No extension or renewal has been authorized by the State legislature. As a result, only newly constructed or reconstructed private dwellings on which construction commenced prior to July 1, 2006 and completed no later than July 1, 2008 qualifies for 421-b exemption benefits.

The 421-g program was established in 1995 as part of a comprehensive plan to revitalize the Lower Manhattan business district. The program provided both exemption and abatement benefits for the conversion of existing commercial buildings into residential properties. The enabling legislation was scheduled to terminate on June 30, 2007 but an amendment moved the sunset date to June 30, 2006. This legislation, too, received no extension and now program benefits are available only for conversions for which building permits were issued by the Department of Buildings on or before June 30, 2006.

The J51 program restricts exemption benefits in the area of Manhattan south of 96th Street to those buildings, which, after completion of construction, held an average assessed valuation per dwelling unit of \$38,000. This effectively excluded J51 exemption benefits for residential construction in that area of the City. This program's schedule calls for it to sunset, allowing only those projects reaching completion on or before Dec. 31, 2007 to receive exemption benefits.

On the commercial front, the popular Industrial and Commercial Incentive Program, responsible for over 13,000 projects since its inception in 1984, currently hits the sunset date on June 30, 2007. At present, the future of this program is problematic. Developers with industrial and commercial projects in the planning stage need to act quickly in order to ensure that their projects will qualify for ICIP benefits. In many cases, this requires filing a preliminary application for ICIP benefits with the Department of Finance on or before June 30, 2007 and obtaining building permits for the work described in the application no later than July 31, 2007. —RENY

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