



NEW YORK STATE ASSOCIATION FOR AFFORDABLE HOUSING

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NYSAFAH GUIDELINES FOR RPTL 581-a: THE AFFORDABLE HOUSING PROPERTY TAX REFORM LAW

As you know, under the provisions of section 581-a of the Real Property Tax Law, all affordable rental housing must be assessed under the income approach. NYSAFAH has been working with DHCR and the NYS Assessors Association to see that this law is implemented in a fair and efficient manner. Based on these discussions, and the regulations that were adopted by DHCR, we have the following recommendations for our members who wish to take advantage of the legislation:

1. Read the regulations. In three paragraphs, the regulations define affordable rental housing and lay out exactly what documentation you must submit to your local assessor. A copy of the regulations follows.

- Affordable housing is defined as property operating under a regulatory agreement with a government agency in which at least 20% of the residential units are rented to tenants who qualify in accordance with an income test.
- To qualify to be assessed under 581-a, an owner must submit the most recent financial statement or independent auditor's report showing 12 months of income and expenses for the project; if you submit an annual report to the regulating agency, then that is what you should submit to the assessor. If the most recent financial statement does not reflect 12 months of occupancy, then submit the most recent operating budget approved by the regulating agency.

2. Submit all documentation by March 1. If you do not submit by this date, the assessor may not be able to take your actual operations into account when making the assessment, and you will then have to go through the grievance procedure to receive an accurate assessment.

3. Talk to the assessor. Since the legislation is new, not all assessors will be aware of it or fully understand it. If the assessor has questions that you cannot answer, you can refer him or her to Bob Marks (rmarks@orps.state.ny.us) at the NYS Office of Real Property Assessment (ORPS), which is an advisory agency for assessors.

4. Expect to pay real estate taxes. Some owners have suggested that projects that had a negative cash flow in 2006 would not be required to pay taxes. The law was not intended to reward poorly operated properties or eliminate the real estate tax liabilities of properties with temporary financial difficulties. In fact, we at NYSAFAH are concerned that if owners attempt to abuse the law to avoid paying taxes it will be amended or revoked. It is our understanding that assessors have the right to request additional support for income and expenses, including budgets and statements from prior years, in order to determine a net operating income that most accurately reflects property operations over the assessment period.

5. You may still want to apply even if you have a PILOT. Many PILOT agreements do not exclude you from special assessments, special charges and special ad valorem levies. Many of these are based on your assessment and therefore 581-a will still apply.

6. Contact NYSFAFH if you have any questions. Contact Bernie Carr at 718.432.2100 or email bernie@nysafah.org.

We will continue our discussions with DHCR and the assessors, but we need your help to make this legislation work. Let us know about your experiences over the next few months, both good and bad.