



## Homes and Community Renewal

KATHY HOCHUL

Governor

RUTHANNE VISNAUSKAS

Commissioner/CEO

### Initial Registration Instructions 421-a (16) Tax Benefit Buildings

Buildings may now receive Affordable New York Housing Program tax benefits pursuant to Subdivision 16 of the real property tax law Section 421-a, referred to as 421-a (16). All new rental buildings that commence construction on or after January 1, 2016 would only be eligible for benefits pursuant to 421-a (16), but buildings that were not receiving benefits under the prior program (421-a (1-15)) before June 15, 2015 also may elect to receive benefits pursuant to 421-a (16) if they meet all of the 421-a (16) eligibility criteria.

Market units in buildings receiving 421-a (16) tax benefits are subject to different provisions concerning high rent vacancy deregulation from rent stabilization than market units in buildings receiving 421-a (1-15) benefits. First, a market unit that is initially rented at a rent charged and paid that is at or above the deregulation threshold is permanently exempt from rent stabilization. Second, while a market unit that is initially rented at a rent charged and paid below the deregulation threshold must be rent stabilized, it may become deregulated during the applicable 421-a (16) restriction period if, upon a vacancy at some point after initial occupancy, the legal rent lawfully reaches the deregulation threshold. Third, since 421-a (16) eliminated the requirement of HPD approval for market unit rents, owners no longer have to provide a total monthly building rent on the Initial Building Summary and the initial registration forms for vacant market units do not have to include a rent.

In an effort to reduce administrative burdens for owners and all affected parties, DHCR wants all initial registrations for 421-a (16) tax benefits to capture a one time “snapshot” of the entire building on the date the building became subject to Rent Stabilization, which is the **date of completion of construction**. Any subsequent changes to occupants’ rents and/or apartment status will be noted in future annual registrations, not in amendments to initial registrations. Therefore, DHCR will only accept amendments to initial registrations in accordance with previously established regulations and the policy articulated on DHCR’s website and in relevant Administrative Determination proceedings.

Accordingly, the following registration requirements are being put into place, effective immediately for buildings receiving 421-a (16) benefits:

- Owners are required to file Initial Apartment registration forms for every apartment in the building (market units and affordable units), one Initial Building Summary form and one Initial Building Services form, along with the HPD-approved 421-a (16) workbook sheets. Incomplete registrations will be rejected.
- **Affordable units that are vacant** on the date the building became subject to Rent Stabilization must include the legal rent and Area Median Income (AMI) percentage that applies to the apartment on the Initial Apartment registration form.

- **Market rate units that are vacant or occupied by an owner or employee** on the date the building became subject to Rent Stabilization must also be registered, but they do not have to include the legal rent on the Initial Apartment registration form and should instead enter a legal rent of “0.00”. In the Tenant Name field (Item 10), enter “Vacant”, “Owner”, or “Employee”.

Please note, if a market unit that was vacant at the initial registration filing is thereafter rented at an amount below the deregulation threshold, the subsequent annual registration filing with DHCR must reflect that the unit is rent stabilized and include the name of the tenant, the legal rent and any other required information. If the market unit is subsequently rented at or above the deregulation threshold, it can be registered in the subsequent annual registration as Permanently Exempt- High Rent Vacancy Decontrol.

- **Market units that are occupied** on the date the building became subject to Rent Stabilization with a rent charged and paid **below the deregulation threshold** are to be registered as rent stabilized with the tenant’s name and the legal rent. Subsequent vacancies of market units that result in Permanently Exempt-High Rent Vacancy Decontrol can be reported in the appropriate subsequent annual registration filing.
- **Market units that are occupied** on the date the building became subject to Rent Stabilization with a rent charged and paid at or above the deregulation threshold are to be registered as Permanently Exempt- High Rent Vacancy Decontrol. The owner must provide the name of the tenant and the actual rent paid by the tenant, and such rent must be at or above the deregulation threshold.
- **Affordable units that are occupied** on the date the building became subject to Rent Stabilization are to be registered as rent stabilized with the tenant’s name, the legal rent, and the Area Median Income (AMI) percentage that applies to the apartment.

Please also note that deregulated market units are to be tallied and included in the unit count summary on the Initial Building Summary registration form along with a count of rent stabilized market units and affordable units.

The first tenant(s) to occupy a deregulated market unit that was previously occupied by a rent stabilized tenant also must be served with DHCR- Notice of 421-a (16) Apartment Market Rate Threshold Exemption (MRTE-N).

DHCR reserves the right to accept registrations in an alternative manner.

### **Special Instructions for Buildings Electing to Receive Tax Benefits under 421-a (16)(r)**

When an owner opts in under 421-a (16)(r) and has not previously registered the building with DHCR, then the owner should follow the instructions provided above.

When an owner opts in under 421-a (16)(r) and has previously registered with DHCR, the following additional registration instructions (initial and annual) apply:

Market units that were previously registered as vacant with a legal rent entered (regardless of whether the rent was below or above the deregulation threshold), need to have the legal rent amended to “0.00”. Upon initial occupancy, follow the instructions provided above.

Market units that were previously registered as occupied by a tenant, with a legal rent entered that was charged and paid (regardless of whether the rent was below or above the deregulation threshold), do not need to be amended.

NOTE- Those market units occupied by a tenant previously registered at an amount above the deregulation threshold **cannot** be deregulated until the tenant currently occupying the market unit at the time of such registration vacates.

Affordable units that were previously registered will have to be amended in accordance with the information that is contained in the HPD approved 421-a (16) Affordable Housing Units Workbook.

(12/22 revised)