Statement of necessity for Emergency Adoption of the Reasonable Cost Schedule

On June 14, 2019, the law which is commonly known as the “Housing Stability and Tenant Protection Act of 2019” or “HSTPA” (Ch. 36 of the Laws of 2019) was enacted. On June 25, 2019, change amendments were enacted, commonly referred to as the “Clean-up Legislation” (Part Q, Ch. 39 of the Laws of 2019). The Legislature has determined that, because of a serious public emergency, the regulation of residential rents and evictions is necessary to prevent the exaction of unreasonable rents and rent increases and to forestall other disruptive practices that would produce threats to public health, safety and general welfare. HSTPA serves to reform and strengthen the rent laws and provide greater protection for tenants. As relevant herein, section K of HSTPA as amended by the Clean Up Legislation modified the requirements landlords must meet to receive rent increases based on major capital improvements and individual apartment improvements. The legislation mandated that the Division of Housing and Community Renewal (“DHCR”) promulgate rules and regulations applicable to all rent regulated units that, among other things and as is relevant to this proposed rule, establish a schedule of reasonable costs for major capital improvements which sets a cap on the costs that can be recovered through a temporary major capital improvement increase, based on the type of improvement and its rate of depreciation. The Clean-up Legislation directed the amendment and/or repeal of any rule or regulation necessary for the implementation of HSTPA on and after June 14, 2019 to be made immediately and completed on or before June 14, 2020, provided, however, that in the absence of such rules and regulations, DHCR shall immediately commence and continue implementation of all provisions of HSTPA. Consequently, the proposed rulemaking is immediately necessary to conform with the statutory amendments and to provide the public with the rules necessary to comply with the current legislation. For the aforementioned reasons, DHCR finds that immediate adoption of the rule is necessary for the preservation of the general welfare, and that compliance with the rulemaking procedures set forth in State Administrative Procedure Act section 202(1) would be contrary to the public interest. Given the upcoming statutory deadline, emergency adoption is needed for timely compliance with the legislation. Thus, DHCR finds that the regulation must be adopted and implemented effective June 16, 2020 on an emergency basis, and compliance with the minimum periods of notice, public comment and other requirements of State Administrative Procedure Act section 202(1) would be contrary to the public interest.