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Int. No. 472

By Council Members Dilan, Comrie, Nelson, Seabrook and White Jr. (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to benefits pursuant to section four hundred twenty-one-a of the real property tax law.

Be it enacted by the Council as follows:

Section 1. Subdivision (a) of section 11-245 of the administrative code of the city of New York, as amended by local law number 8 for the year 2006, is amended to read as follows:

(a) (1) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any construction commenced on or after November twenty-ninth, nineteen hundred eighty-five

and prior to [December thirty-first, two thousand seven] the effective date of section two of the local law that added this phrase for any tax lots now existing or hereafter created which are located entirely within the geographic area in the borough of Manhattan bounded and described as follows: BEGINNING at the intersection of the bulkhead line in the Hudson River and 96th street extended; thence easterly to 96th street and continuing along 96th street to its easterly terminus; thence easterly to the intersection of 96th street extended and the bulkhead line in the East River; thence southerly along said bulkhead line to the intersection of said bulkhead line and 14th street extended; thence westerly to 14th street and continuing along 14th street to Broadway; thence southerly along Broadway to Houston street; thence westerly along Houston street to Thompson street; thence southerly along Thompson street to Spring street; thence westerly along Spring street to Avenue of the Americas; thence northerly along Avenue of the Americas to Vandam street; thence westerly along Vandam street to Varick street; thence northerly along Varick street to Houston street; thence westerly along Houston street and continuing to its westerly terminus; thence westerly to the intersection of Houston street extended and the bulkhead line in the Hudson River; thence northerly along said bulkhead line to the intersection of said bulkhead line and 30th street extended; thence easterly along 30th street to 11th avenue; thence northerly along 11th avenue to 41st street; thence westerly along 41st street and continuing to its westerly terminus; thence westerly to the intersection of 41st street extended and the bulkhead line in the Hudson River; thence northerly along said bulkhead line to the place of beginning.

§2. Subdivision (a) of section 11-245 of the administrative code of the city of New York is amended by adding three new paragraphs 2, 3 and 4 to read as follows:

(2) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any construction commenced on or after the effective date of section two of the local law that added this paragraph and prior to December thirty-first, two thousand seven for any tax lots now existing or hereafter created which are located entirely within the geographic area in the borough of Manhattan bounded and described as follows: BEGINNING at the intersection of the bulkhead line in the Hudson River and the

northwesterly prolongation of west 125th street/Martin Luther King, Jr. boulevard; thence southeasterly along west 125th street/Martin Luther King, Jr. boulevard to the intersection of west 125th-street/Martin Luther King, Jr. boulevard and west 129th street; thence southeasterly along west 129th street to the intersection of west 129th street, west 126th street, and Broadway; thence southeasterly along west 126th street to the intersection of Fifth avenue and west 126th-street; thence southwesterly along Fifth avenue to the intersection of west 124th street and Fifth-avenue; thence northwesterly along west 124th street to the intersection of St. Nicholas avenue and west 124th street; thence southerly along St. Nicholas avenue to the intersection of St. Nicholas avenue and west 111th street; thence southeasterly along west 111th street to east 111th street; thence southeasterly along east 111th street to the intersection of Park avenue and east 111th street; thence southwesterly along Park avenue to the intersection of east 97th street and Park avenue; thence southeasterly along east 97th street and the southeasterly prolongation of east 97th street to its intersection with the bulkhead line in the East River; thence southwesterly along said bulkhead line in the East River to the southernmost tip of Manhattan and continuing along said bulkhead line to the Hudson River; thence continuing along said bulkhead line northeasterly to the place of beginning.

(3) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any construction commenced on or after the effective date of section two of the local law that added this paragraph and prior to December thirty-first, two thousand seven for any tax lots now existing or hereafter created which are located entirely within the geographic area in the borough of Queens bounded and described as follows: BEGINNING at the intersection of the bulkhead line in the East River and the northwesterly prolongation of 20th avenue; thence southeasterly along 20th avenue to the intersection of 19th street and 20th avenue; thence southwesterly along 19th street to the intersection of 19th street and 21st avenue; thence southeasterly along 21st avenue to the intersection of 21st avenue and 19th street; thence southwesterly along 19th street and thence along its southwesterly prolongation to its intersection with Astoria Park south; thence northwesterly along Astoria Park south to the intersection of Astoria Park south and 14th street; thence

southwesterly along 14th street to 26th avenue; thence northwesterly along 26th avenue and its northwesterly prolongation to the intersection of 26th avenue and First street; thence southwesterly along First street to the intersection of First street and 27th avenue; thence southeasterly along 27th avenue to the intersection of 27th avenue and Eighth street; thence southwesterly along Eighth street to the intersection of Eighth street and 30th avenue; thence southeasterly along 30th avenue to the intersection of 30th avenue and 12th street; thence southwesterly along 12th street to the intersection of 12th street and Broadway; thence northwesterly along Broadway to the intersection of Broadway and Vernon boulevard; thence southwesterly along Vernon boulevard to the intersection of Vernon boulevard and 44th avenue; thence southerly along Vernon boulevard to the intersection of Vernon boulevard and 45th road; thence northwesterly along the northwesterly prolongation of 45th road to its intersection with Fifth street; thence southwesterly along Fifth street to the intersection of Fifth street and 50th avenue; thence northwesterly along 50th avenue to the intersection of 50th avenue and Second street; thence southwesterly along Second street to the intersection of Second street and 54th avenue; thence southeasterly along 54th avenue to the intersection of 54th avenue and Vernon boulevard; thence southwesterly along Vernon boulevard to its southerly terminus at the bulkhead line in Newtown Creek; thence westerly along said bulkhead line to the East River; thence northerly along said bulkhead line in the East River to the place of beginning.

(4) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any construction commenced on or after the effective date of section two of the local law that added this paragraph and prior to December thirty-first, two thousand seven for any tax lots now existing or hereafter created which are located entirely within the geographic area in the borough of Brooklyn bounded and described as follows: BEGINNING at the intersection of the bulkhead line in Newtown Creek and the prolongation of Manhattan avenue; thence southerly along Manhattan avenue to the intersection of Manhattan avenue and Commercial street; thence southwesterly along Commercial street to the intersection of Commercial street and Dupont street; thence easterly along Dupont street to the intersection of Dupont street

and Franklin street; thence southerly along Franklin street to the intersection of Franklin street and Eagle street; thence westerly along Eagle street to the intersection of Eagle street and West street; thence southerly along West street to the intersection of West street and Quay street; then easterly along Quay street to the intersection of Quay street and Franklin street; thence southerly along Franklin street to its intersection with Kent avenue; thence southwesterly along Kent avenue to the intersection of Kent avenue and south Third street; thence southeasterly along south Third street to a point on south Third street 320 feet from Kent avenue; thence southerly to a point on south Fourth street 320 feet from Kent avenue; thence northwesterly along south Fourth street to the intersection of south Fourth street and Kent avenue; thence southerly along Kent avenue to the intersection of Kent avenue and Williamsburgh street west; thence southerly along Williamsburgh street west to its terminus at Flushing avenue; thence westerly along Flushing avenue to the intersection of Flushing avenue and Navy street; thence northerly along Navy street to the intersection of Navy street and York street; thence westerly along York street to the intersection of York street and Front street; thence westerly along Front street to the intersection of Front street and Old Fulton street; thence southeasterly along Old Fulton street to the intersection of Old Fulton street and Cadman Plaza west; thence southerly along Cadman Plaza west to its termination at Court street; thence southwesterly along Court street to the intersection of Court street and Pacific street; thence northwesterly along Pacific street and its northwesterly prolongation to its intersection with Hicks street; thence southwesterly along Hicks street to the intersection of Hicks street and Congress street; thence northwesterly along Congress street to the intersection of Congress street and Columbia street; thence southwesterly along Columbia street to the intersection of Columbia street and Sackett street; thence northwesterly along Sackett street and its northwesterly prolongation to its intersection with the bulkhead line in the East River; thence northerly along said bulkhead line in the East River to its intersection with Newton Creek; thence easterly along the bulkhead line in Newton Creek to the place of beginning.

§3. Subdivision (a-2) of section 11-245 of the administrative code of the city of New York, as added by local law number 8 for the year 2006, is amended to read as follows:

(a-2) Notwithstanding the provisions contained in subdivision (a) of this section concerning the date of commencement of construction, the amendments to such subdivision (a) made by [the] local law [that added this subdivision] number 8 for the year 2006 shall only apply to construction commenced on or after [the effective date of section three of the local law that added this subdivision] May eleventh, two thousand seven and prior to [December thirty-first, two thousand seven] the effective date of section two of the local law that added this phrase.

§4. Subdivision (b) of section 11-245 of the administrative code of the city of New York, as added by local law number 97 for the year 1989, is amended to read as follows:

(b) The limitations contained in subdivision (a) of this section shall not be applicable to:

(1) construction carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality where the department of housing preservation and development has determined that such assistance is provided pursuant to a program for the development of low and moderate income housing, or

(2) projects where the department of housing preservation and development has imposed a requirement or has certified that twenty percent of the units be affordable to households of low and moderate income, or

(3) construction carried out pursuant to an agreement with the department of housing preservation and development entered into prior to the effective date of section four of the local law that added this phrase to create or substantially rehabilitate housing units offsite affordable to households of low and moderate income provided that:

(i) the number of any such low income units which may be made available to homeless households must be equal to a ratio of at least one low income unit for every six units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law; or

(ii) the number of any such low income units which may be made available must be equal to at least twenty percent of the number of units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law; or

(iii) the number of any such moderate income units which may be made available must be equal to at least twenty-five percent of the number of units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law; and

(iv) in any building containing more than one hundred thirty units of low and moderate income housing created or substantially rehabilitated pursuant to this paragraph, two of every three units in excess of one hundred thirty units shall at initial occupancy be affordable to moderate income households; and

(v) upon[,] initial occupancy, all such housing units affordable to households of low and moderate income must be registered with the New York state division of housing and community renewal. Such units must remain rent stabilized for the entire period during which such units receive real estate tax benefits under any New York state or city tax abatement and/or exemption programs, or for twenty years, whichever is longer; future rent increases may not exceed the increases established by the rent guidelines board; upon vacancy, units must be re-rented at no more than the legal stabilized rent. All units must be rented to households earning no more than four times such annual rent at the time of initial occupancy; the lease for the tenants in occupancy of all units created pursuant to this paragraph at the expiration of the rent stabilization period pursuant to this sub-paragraph shall include the right to remain as rent stabilized tenants for the duration of their occupancy. Once units become vacant after termination of such rent stabilization period, the owner of such units shall have the option to de-stabilize such rents; and

(vi) the provisions of sub-paragraph (v) shall not apply to any unit owned as a cooperative or condominium and occupied by the shareholder or owner; and

(vii) nothing contained in this paragraph shall preclude a grant of benefits under section four hundred twenty-one-a of the real property tax law for any building or buildings located in the area described in subdivision (a) of this section if carried out pursuant to an agreement entered into prior to January first, nineteen hundred ninety-one, with the department of housing preservation and development to create or substantially rehabilitate housing units affordable to households of low and moderate income in a geographic area or areas outside the area described in subdivision (a) of this section, provided that the number of such low and moderate income units must be equal to at least twenty per cent of the number of units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law.

§5. The administrative code of the city of New York is amended by adding a new section 11-245.1a to read as follows:

11-245.1a Limitations on benefits pursuant to section four hundred twenty-one-a of the real property tax law.

(a) As used in this section, the following terms shall have the following meanings:

(1) “Residential tax lot” shall mean a tax lot that contains dwelling units.

(2) “Non-residential tax lot” shall mean a tax lot that does not contain any dwelling units.

(3) “Annual limit” shall mean one hundred thousand dollars, which amount shall be increased by three percent, compounded annually, on each taxable status date following the first anniversary of the effective date of section five of the local law that added this section.

(4) “Certificate of occupancy” shall mean the first certificate of occupancy covering all residential areas of the building on or containing a tax lot.

(5) “Unit count” shall mean (i) in the case of a residential tax lot that does not contain any commercial, community facility or accessory use space, the number of dwelling units in such tax lot, and (ii) in the case of a residential tax lot that contains commercial, community facility or accessory use space, the

number of dwelling units in such tax lot plus one.

(6) “Exemption cap” shall mean the unit count multiplied by the annual limit.

(b) The provisions of this section shall apply only to projects that commence construction on or after the effective date of section five of the local law that added this section.

(c) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any multiple dwelling containing fewer than six dwelling units, as set forth in the certificate of occupancy, unless the department of housing preservation and development has determined that such multiple dwelling is part of a governmental program for the development of low and moderate income housing and meets all other requirements for receipt of such benefits.

(d) The portion of the assessed valuation of any residential tax lot exempted from real property taxation in any year pursuant to section four hundred twenty-one-a of the real property tax law shall not exceed the exemption cap on or after the first taxable status date after the building on or containing such tax lot receives its certificate of occupancy unless, in accordance with a regulatory agreement with or approved by the department of housing preservation and development that is applicable to such tax lot, (1) the construction of such building is carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality and the department of housing preservation and development has determined that such assistance is provided pursuant to a program for the development of low and moderate income housing, or (2) the department of housing preservation and development has imposed a requirement or has certified that twenty per cent of the units be affordable to households of low and moderate incomes. A dwelling unit that is located in two or more tax lots shall be ineligible to receive any benefits under section four hundred twenty-one-a of the real property tax law. The portion of the assessed valuation of all non-residential tax lots in the building on or containing such non-residential tax lots exempted from real property taxation in any year pursuant to section four hundred twenty-one-a of the real property tax law shall not exceed a cumulative total equal to the annual limit on or after the first taxable status date after the building on or containing such non-

residential tax lots receives its certificate of occupancy.

(e) A new multiple dwelling that is situated in (1) a neighborhood preservation program area as determined by the department of housing preservation and development as of June first, nineteen hundred eighty-five, (2) a neighborhood preservation area as determined by the New York city planning commission as of June first, nineteen hundred eighty-five, (3) an area that was eligible for mortgage insurance provided by the rehabilitation mortgage insurance corporation as of May first, nineteen hundred ninety-two, or (4) an area receiving funding for a neighborhood preservation project pursuant to the neighborhood reinvestment corporation act (42 U.S.C. §§ 8101 et seq.) as of June first, nineteen hundred eighty-five, shall only be eligible for the benefits available pursuant to subparagraph (iii) of paragraph (a) of subdivision two of section four hundred twenty-one-a of the real property tax law if:

a. the construction is carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality and the department of housing preservation and development has determined that such assistance is provided pursuant to a program for the development of low and moderate income housing, or

b. the department of housing preservation and development has imposed a requirement or has certified that twenty percent of the units be affordable to households of low and moderate incomes.

(f) The department of housing preservation and development may promulgate rules and regulations to effectuate the purposes of this section.

(g) The limitation on eligibility for benefits contained in this section shall be in addition to those contained in any other law, rule or regulation.

§6. Subdivision (d) of section 11-245 of the administrative code of the city of New York is amended to read as follows:

(d) For purposes of subdivisions (a) and (c) of this section and section 11-245.1a of this part, construction shall be deemed to have commenced on the date immediately following the issuance by the

department of buildings of a [new] building or alteration permit for [an entire new building] a multiple dwelling (based upon architectural, plumbing and structural plans approved by such department) on which the excavation and the construction of initial footings and foundations commences in good faith, [on vacant land and for the entire project site,] as certified by an architect or professional engineer licensed in the state, provided that [installation of footings and foundations is similarly] the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer [to have been completed without undue delay]. Notwithstanding the foregoing, if a project includes new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure, construction shall be deemed to have commenced on the date immediately following the issuance by the department of buildings of an alteration permit for the multiple dwelling (based upon architectural, plumbing and structural plans approved by such department) on which the actual construction of such concurrent conversion, alteration or improvement of the pre-existing building or structure commences in good faith, as certified by an architect or professional engineer licensed in the state, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

§7. This local law shall take effect one year after it shall have become a law, except that sections one and three of this local law shall take effect on May 11, 2007.