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Int. No. 1323

By Council Members Kallos and Ampy-Samuel

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of housing preservation and development to submit to the council compliance packages related to housing development projects receiving city financial assistance

Be it enacted by the Council as follows:

Section 1. Section 26-901 of the administrative code of the city of New York, as added by local law number 44 for the year 2012, is amended to read as follows:

§ 26-901 Definitions. For the purposes of this chapter [only], the following terms [shall be defined as follows] have the following meanings:

[a.] City financial assistance. The term “[City] city financial assistance” includes any loans, grants, tax credits, tax exemptions, tax abatements, subsidies, mortgages, debt forgiveness, land conveyances for less than

appraised value, land value or other thing of value allocated, conveyed or expended by the city.

[b.] Construction condition. The term “[Construction] construction condition” means:

[(1) a] 1. A violation of the New York city construction codes issued to a housing development project, a developer or a covered contractor of such housing development project, during the project work or within a five-year period following the completion of such project;

[(2) a] 2. A complaint related to the construction quality of a housing development project received by the department during the project work or within a five-year period following the completion of such project; or

[(3) a] 3. A determination by the department, during the project work or within a five-year period following completion of such project, that the construction quality of a housing development project does not comply with applicable law or does not conform to customary standards for construction in the city [of New York].

Compliance package. The term “compliance package” means a compliance package form, and any accompanying materials required by the form or by the department, that is submitted to the department as part of its integrity review process to verify the integrity and competence of individuals and entities seeking to do business with the department.

[c.] Contractor. The term “[Contractor] contractor” means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that enters into a contract or other agreement with or is otherwise engaged by a developer or the department to perform project work.

[d.] Covered contractor. The term “[Covered] covered contractor” means a contractor or subcontractor whose annual gross revenue for the immediately preceding tax year is not less than [two million five hundred thousand dollars] \$2,500,000, calculated in accordance with section 779.266 of title 29 of the code of federal regulations; provided, however that where an entity is a principal owner of, serves as principal officer of, conducts or participates directly or indirectly in the conduct of the affairs of such contractor or subcontractor and any other contractor or subcontractor, the annual gross revenue for the immediately preceding tax year for

each such contractor or subcontractor shall be aggregated and, if such aggregated value is not less than [two million five hundred thousand dollars] \$2,500,000, each such contractor or subcontractor shall be a covered contractor.

[e.] Department. The term “[Department] department” means the department of housing preservation and development.

[f.] Developer. The term “[Developer] developer” means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that receives city financial assistance for a housing development project.

[g.] Disqualified list. The term “[Disqualified] disqualified list” means a list that identifies entities that are precluded by the department from being selected as developers where “disqualified” [shall mean] means debarred, suspended or otherwise prohibited for any length of time. Such term [shall] also [include] includes a list of entities that are ineligible to be included on a list of prequalified contractors or subcontractors.

[h.] Housing development project. The term “[Housing] housing development project” means construction, rehabilitation or alteration of any residential building, residential facility or residential structure by a developer:

[(1) which] 1. Which creates or preserves at least one dwelling unit;

[(2) which] 2. Which is funded in whole or in part by city financial assistance other than non-discretionary tax abatements or benefits approved or administered in accordance with sections 421-a or 489 of the [New York state] real property tax law or other similar programs; and

[(3) where] 3. Where the developer of such project was not selected more than five years prior to the effective date of this chapter.

The term “housing development project” [shall] does not include emergency repairs performed by or on behalf of the department pursuant to section 27-2125 [of this code], work performed by or on behalf of the department pursuant to section 27-2153 [of this code], demolition work performed by or on behalf of the

department pursuant to articles [two hundred fifteen] 215 or [two hundred sixteen] 216 of chapter [two] 2 of title [twenty-eight] 28 [of this code], or work funded by the department pursuant to article [seven-a] 7-a of the [New York state] real property actions and proceedings law.

[i.] List identifier. The term “[List] list identifier” means a description of the purpose for which a disqualified list or prequalified list is used by the department that [shall include] includes the types of housing development projects for which the list is used.

[j.] Prequalified list. The term “[Prequalified] prequalified list” means a list that identifies entities that are prequalified to be selected as developers and that was compiled, modified or used by the department to select developers within the immediately preceding five-year period; provided, however that the term “prequalified list” [shall] also [include] includes a list of entities that the department compiles and makes available to developers to assist in the selection of contractors and subcontractors to perform project work.

[k.] Principal officer. The term “[Principal] principal officer” means an individual who serves as or performs the functions of chief executive officer, chief financial officer or chief operating officer of an entity.

[l.] Principal owner. The term “[Principal] principal owner” means an individual, partnership, joint venture, corporation or other entity which holds a [ten] 10 percent or greater ownership interest in an entity or holds an ownership interest as a general partner, managing partner or other position conducting or participating directly in the conduct of the affairs of an entity. The term “principal owner” [shall] does not include a limited partner of a limited partnership or an equity investor in a limited liability company or a limited liability partnership where such equity investor does not conduct or participate directly in the conduct of the affairs of the limited liability company or limited liability partnership.

[m.] Project identifier. The term “[Project] project identifier” means a description of a housing development project sufficient to identify such project.

[n.] Project work. The term “[Project] project work” means construction, rehabilitation, alteration or demolition work performed in connection with a housing development project. Such term shall not include

professional services including architectural, engineering, legal or accounting services or administrative, clerical or other similar office support services, or individuals solely engaged in managing, directing or supervising project work.

[o.] Subcontractor. The term “[Subcontractor] subcontractor” means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that enters into a contract or other agreement with or is otherwise engaged by a contractor, the department or other entity to perform project work.

§ 2. Chapter 10 of title 26 of the administrative code of the city of New York is amended by adding a new section 26-906 to read as follows:

§ 26-906 Compliance packages for housing development projects. a. Within 45 days of selecting a developer for a housing development project, the department shall submit to the council copies of all completed compliance packages filed with the department in connection with such housing development project.

b. No information that is otherwise required to be disclosed pursuant to this section shall be disclosed in a manner that would violate any applicable provision of federal, state or local law related to the privacy of information.

§ 3. This local law takes effect immediately.

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