



STATE OF NEW YORK

DEPARTMENT OF LAW

REAL ESTATE FINANCE BUREAU

MEMORANDUM

Re: Disclosure for Hurricane Sandy

Date: May 21, 2013

Introduction:

As a result of Hurricane Sandy, certain parts of the tri-state area sustained property damage. In some cases, the property damage was material, and disclosure of such damage is warranted. See 13 NYCRR § 20.5(a)(1) or comparable sections of Parts 18 through 25. Furthermore, the aftermath of Hurricane Sandy has resulted in insurance premium increases and changes to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate and Flood Hazard Boundary Maps, which information is also material and warrants disclosure.

Required Disclosure:

As of the date of this memorandum, both new and existing offering plans with properties in the following flood zones shall disclose the physical and financial impact of Hurricane Sandy: (1) High Risk Areas (Zones A, AE, A1-30, AH, AO, AR, and A99); (2) High Risk - Coastal Area (Zones V, VE, and V1-30); and (3) Moderate Risk Areas (Zones B and X [shaded]), as designated by FEMA, and depicted on the Flood Insurance Rate Map or Flood Hazard Boundary Map.¹ For existing offering plans, the Sponsor must amend to disclose such information no later than July 31, 2013. The amendment should also include the current flood designation of the property.

For offering plans where the Sponsor still controls the Board and such damage has had a material impact on the budget and/or condition of either unsold units or the common areas of the property, the Sponsor must provide the following information:

- (1) An updated budget and budget certification, as required by 13 NYCRR § 20.4(d) or comparable sections of Parts 18 through 25;

¹ Additional Information is available at

<https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

(2) An updated Description of Property and Specifications or Building Condition required by 13 NYCRR § 20.7 or comparable sections of Parts 18 through 25, which should include the following information:

(a) Whether there was any damage to the property;

(b) A detailed description of the damage and its effect on common elements and/or the units, as applicable;

(3) A description of the remedial work. If such work has been completed, include a description of the completed remedial work and the cost thereof. If the remedial work has not been completed, include the following information:

(a) a description of the estimated remedial work and the estimated cost thereof; and

(b) a proposed timeline for completion;

(4) The source of funds used or anticipated to be used to pay for the remedial work; and

(5) An updated certification of the engineer or architect pursuant to 13 NYCRR § 20.4(c) or comparable sections of Parts 18 through 25.

For Plans where the Sponsor no longer controls the Board, the amendment must disclose whether the property was impacted by Hurricane Sandy, and if so, must include a detailed description of the damage and its effect on the common elements and/or any unsold units; however the Sponsor shall not be required to provide an updated budget certification required by paragraph (1), an updated Description of Property required by paragraph (2), or the certification of engineer or architect required by paragraph (5). Notwithstanding the foregoing, the Department of Law reserves the right to require such additional disclosures if deemed necessary to protect the public interest.

If the remedial work disclosed in paragraph (3) has not been completed as of the date of submission of the amendment, the Sponsor must include such information in the next substantive update amendment to the offering plan.