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STATE OF NEW YORK

DEPARTMENT OF LAW

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REAL ESTATE FINANCE BUREAU

MEMORANDUM

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**Re: Guidance on Exemption Application for  
Conversions Pursuant to the Third Party  
Transfer Program**

**Date: 6/3/2014<sup>1</sup>**

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Introduction:

The conversion of a building, group of buildings, or development pursuant to the Third Party Transfer Program (“TPT”) is governed by New York General Business Law (“GBL”) § 352-e and 13 NYCRR Part 18 (Regulations Governing the Conversion of Occupied Residential Property to Cooperative Ownership). Notwithstanding the requirement to submit an offering plan, the Department of Law (the “DOL”) shall permit sponsors to utilize a model exemption application in lieu of an offering plan, so long as the minimum disclosure requirements set forth herein are met.

In conjunction with the New York City Department of Housing Preservation and Development (“HPD”), the DOL has developed a model exemption application for such transactions, articulated below.

Procedure for Submission:

The exemption application must include the following documents:

- HPD Pre-Submission Approval Letter obtained from TPT Program Director;
- M-10 Form;
- One complete exemption application including all exhibits in Part I and Part II (Cooperative Information Package);
- One black-lined copy of Part I of the Cooperative Information Package if using Microsoft Word format;

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<sup>1</sup> Replaces Memo dated 6/16/2009.

- Transmittal Letter in compliance with 13 NYCRR § 18.4(a), which should state that Sponsor is seeking an exemption pursuant to 13 NYCRR § 18.1(k);
- Sponsor Certification pursuant to 13 NYCRR § 18.4(b); and
- President's (Sponsor) Affidavit in compliance with 13 NYCRR § 18.9.

Once the DOL receives a complete exemption application, an attorney will be assigned to review the exemption application within 30 days of receipt.

The filing fee required for the submission of the exemption application, including amendments, shall be waived by the DOL.

Upon review of the exemption application, the DOL shall issue an acceptance for filing letter. The sponsor shall be prohibited from distributing the Cooperative Information Package until the application has been accepted for filing.

In the event of any material changes to the disclosures in the exemption application, the sponsor must file an amendment in compliance with 13 NYCRR § 18.5. Any changes to the budget, sales prices, or regulatory agreement must be submitted with a letter of approval from HPD.

The sponsor shall be required to submit an effectiveness amendment prior to setting the effective date and prior to having the first apartment closing in compliance with 13 NYCRR § 18.5(e). The effectiveness amendment shall be submitted to the DOL once the sponsor has entered into purchase agreements with 80% of the tenants in occupancy and when 80% of the total units in the building are under contract. A model effectiveness amendment has been provided by the DOL. Copies of the purchasing tenant affidavits and the non-purchasing tenant affidavits (models of which are provided by the DOL) must be submitted along with the effectiveness amendment.

The sponsor shall also be required to submit a post-closing amendment in compliance with 13 NYCRR § 18.5(f). A model post-closing amendment has been provided by the DOL.

The following required model documents are available on the DOL Website

<http://www.ag.ny.gov/real-estate-finance-bureau/forms>

- Model Cooperative Information Package Narrative in Microsoft Word format\*
- Purchasing Tenant Affidavit
- Non-Purchasing Tenant Affidavit
- Effectiveness Amendment
- Post-Closing Amendment

The following additional documents are available from HPD or through Lawyers Alliance for New York on the probono.net Website at <http://www.probono.net/ny/nonprofit/>

- Model Cooperative Information Package Narrative in Microsoft Word format
- Model Stock Certificate
- Certificate of Incorporation\*
- Model By-Laws
- Model Proprietary Lease
- Model President's (Sponsor) Affidavit
- Model Sponsor Certification (To be included as an Exhibit in Part II)
- Model Discussion of Reasonable Relationship courtesy of Joel E. Miller, Esq.
- HPD Regulatory Agreement\*
- Model Purchase Agreement
- Model Contract of Exchange

\*It is assumed that all sponsors will use these documents in the form as provided. Minor deviations to the Cooperative Information Package Narrative are subject to the review and approval of the DOL. The Certificate of Incorporation and HPD Regulatory Agreement, including but not limited to schedule of resale prices, are subject to the review and approval of HPD. Any deviations from the models referenced herein will be deemed acceptable to the DOL if approved by HPD.