STATE OF NEW YORK DEPARTMENT OF LAW

REAL ESTATE FINANCE BUREAU

M E M O R A N D U M

Re: Sale of Hallway or Other Additional Space By Coops or Condos **March 26. 2012**

The New York State Department of Law (the "Department") receives a significant number of applications from existing cooperatives and condominiums concerning the sale of ancillary space such as hallway, rooftop, or other common space adjacent to an existing unit ("Additional Space") to existing shareholders, unit owners or contract vendees of existing shareholders or unit owners (collectively, "Owners"). The following memorandum provides guidance concerning applicable filing requirements.

This memorandum does not address the sale of newly-created apartments, offices, or community facilities or existing superintendent's apartments.

Previous Practice

The Department has for many years issued no action letters pursuant to 13 NYCRR §§ 18.9 and 23.9 in connection with the sale of Additional Space to Owners.

Sales of Additional Space To Owners By Non-Sponsor-Controlled Boards

After further review of this issue, the Department has determined that, in general, sales where all three of the following criteria are met are not public offerings of cooperative interests in realty:

1. the offeror of the Additional Space is a board of directors or managers (a "Board") that is not controlled by the original sponsor, successor sponsor, or holder of unsold shares (collectively, "Sponsor"); and

2. the offerees are Owners , other than Sponsor; and

3. the Additional Space has not been marketed to the general public, but, rather, is offered solely to an Owner.

Such offerings are not usually made to the general public. To the contrary, Owners can reasonably be expected to be fully familiar with the subject matter of the offering. Consequently, the offeror need not apply for a no action letter or submit a broker-dealer registration statement in connection with such transactions.

Sales of Additional Space By Sponsor-Controlled Boards

In situations where a Sponsor-controlled Board offers Additional Space, before the sale may proceed, the offering plan must be amended to disclose the pertinent facts concerning Additional Space. If applicable, the amended plan must disclose its inclusion in an existing apartment or unit. If the offering plan is so amended, the Board need not apply for a no action letter or file a broker-dealer registration statement.