STATE OF NEW YORK DEPARTMENT OF LAW

OFFICE OF ATTORNEY GENERAL ROBERT ABRAMS

MEMORANDUM

TO: REF ATTORNEYS, LAW STUDENTS & PARALEGALS

DATE: 8/30/89

FROM: MARY SABATINI DISTEPHAN MSD

RE: Real Estate Tax Disclosure

Complaints concerning disclosure in offering plans of real estate taxes have become more numerous particularly in newly constructed buildings or buildings which have undergone rehabilitation. It is important, therefore, that the disclosure required clearly indicates the tax liability of the coop or of the unit owners in a condominium for the first full year of operation and for future years if this is known or can easily be predicted. It is also important to distinguish between the pre-completion and the post-completion assessment, and identify when the post-completion assessment will be made. These figures should be used in calculating taxes due for the budget in a coop or for the individual taxes for unit owners in a condominium. Double columns indicating pre-completion and post-completion tax liability, and disclosure of the approximate date of completion and reassessment would seem appropriate in these instances.

Where tax exemptions or tax abatements are promised but not yet obtained even in cases of negotiable certificates, one column in Schedule A representing real estate taxes with tax benefits reflected can be used if the preliminary certificate of eligibility for 421-a tax benefits has been obtained or if the certificate of reasonable cost ("CRC") has been obtained for J-51 benefits. If these certificates have not been obtained, two columns must be used in Schedule A, one reflecting real estate taxes with benefits and one without benefits. In the case where two columns must be used and where the certificates have not been obtained there should be a special risk indicating that sponsor has applied for but not yet obtained tax benefits and that there is no guarantee that these benefits will be obtained. Therefore, each purchaser should be aware that such purchaser is buying subject to the possibility that tax benefits will <u>not</u> be obtained.

If there is any question concerning adequate disclosure in a particular plan, please see me.

MSD:kd