STATE OF NEW YORK DEPARTMENT OF LAW

REAL ESTATE FINANCE BUREAU

M E M O R A N D U M

Re: Disclosure Requirements for Offering Plans Involving Robert M. Scarano, Jr., RA

Date: December 19, 2011

The Department of Law has received a request for guidance with regard to disclosure requirements in an offering plan where Robert M. Scarano, Jr. is the architect of record for the sponsor.

Background

The New York State Department of Law ("DOL") has been following the progress of the New York City Department of Buildings ("DOB") case against architect Robert M. Scarano, Jr. since he has acted as the architect for sponsors in numerous offering plans submitted to the DOL.

On June 12, 2008, the DOB issued administrative charges against Mr. Scarano based upon the alleged submission of misleading documents related to two projects. The Commissioner of DOB issued an order barring Mr. Scarano from filing applications for permits to DOB. Mr. Scarano appealed.

On March 1, 2010, following a hearing at the New York City Office of Administrative Trials and Hearings, Administrative Law Judge Salzman found that Mr. Scarano knowingly made false and misleading statements to the DOB on documents he submitted related to three buildings in Brooklyn, New York. Furthermore, Judge Salzman recommended revoking Mr. Scarano's ability to file applications with the DOB. On March 3, 2010, the DOB's Commissioner issued an order prohibiting Mr. Scarano from submitting any document to the DOB.

Mr. Scarano challenged the above decision in Supreme Court, Appellate Division, First Department. On July 14, 2011, the court unanimously confirmed the recommendations of Judge Salzman and the DOB's order which revoked Mr. Scarano's ability to file papers with the DOL. Mr. Scarano appealed.

On October 25, 2011, the New York State Court of Appeals denied Mr. Scarano's motion for leave to appeal the decision that had barred him from filing applications with the

DOB, and in doing so reaffirmed earlier rulings. Therefore, Mr. Scarano is permanently barred from filing any documents with the DOB.

Disclosure Requirements:

All offering plans in which Mr. Scarano is the sponsor's architect must be updated to disclose that Mr. Scarano has been permanently barred from filing any documents with the DOB and the special risk this may pose to purchasers. In the event the sponsor replaces Mr. Scarano with another architect from the firm of Robert M. Scarano, Jr., these facts should be disclosed.

An example of the type of statement that might be included is the following:

"Purchasers are advised that the Architect of Record for this offering can no longer file plans with the NYC Department of Buildings (DOB). In the Enforcements and Violations section of the DOB website, it is posted that "Scarano Robert RA #017739 has a Revocation of DOB Filing Privileges." Purchasers should note that, in Part II of this offering, Mr. Scarano is the architect who prepared the Description of Property and Architect's Certification. Therefore, it is a Special Risk to purchase units in the building without exercising due diligence in making sure that the premises is reviewed by a licensed professional for proper space distribution."