

13 NYCRR Section 21.4.

Transmittal Letter and Certifications

(a) *Transmittal letter.* A transmittal letter addressed to the Department of Law that is signed and affirmed under penalty of perjury by the attorney who prepared the offering plan and containing the following unqualified statements must be submitted with the plan and exhibits:

I/We am/are the attorney(s) who prepared the cooperative offering plan for the captioned property.

Enclosed for filing pursuant to Part 21, Newly Constructed and Vacant Cooperatives, are ~~six~~three copies of the offering plan together with the exhibits.

I/We am/are fully familiar with the provisions of article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 21 and such other laws and regulations as may be applicable to the offering.

I/We prepared the attached offering plan and exhibits based on information from the sponsor. I/We have read all the printed copy submitted to the Department of Law but expressly disclaim any responsibility to have made an independent inspection of the building(s) or property or investigation of the information furnished to me/us by sponsor.

I/We have no actual knowledge of a violation of article 23-A of the General Business Law or of Part 21 promulgated by the Department of Law, nor do I/we know of any material fact omitted or any untrue statement of a material fact included in the offering plan.

(b) Include in the plan and in the exhibits a certification subscribed and sworn to by the sponsor and sponsor's principals, in the following form:

We are the sponsor and the principals of sponsor of the cooperative offering plan for the captioned property.

We understand that we have primary responsibility for compliance with the provisions of article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 21 and such other laws and regulations as may be applicable.

We have read the entire offering plan. We have investigated the facts set forth in the offering plan and the underlying facts. We have exercised due diligence to form a basis for this certification.

We jointly and severally certify that the offering plan does, and that documents submitted hereafter by us which amend or supplement the offering plan will:

- (i) set forth the detailed terms of the transaction and be complete, current and accurate;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;
- (v) not contain any fraud, deception, concealment, suppression, false pretence or fictitious or pretended purchase or sale;
- (vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwar-

ranted by existing circumstances; and

(vii) not contain any representation or statement which is false, where I/we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statements made.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

(c) Include in the plan and in the exhibits a certification subscribed and sworn to by sponsor's engineer or architect (who must either be registered as an architect or be licensed to practice as a professional engineer in the state where the cooperative is located).

(1) The certification must be in the form below for a newly constructed cooperative:

The sponsor of the offering plan for cooperative ownership of the captioned property retained my/our firm to prepare a report describing the property when constructed (the "report").

We examined the building plans and specifications that were prepared by _____, dated _____, and prepared the report dated _____, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the report.

I/We understand that I/we am/are responsible for complying with article 23-A of the General Business Law and the regulations promulgated by the Attorney General in Part 21 insofar as they are applicable to this report.

I/We have read the entire report and investigated the facts set forth in the report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

I/We certify the report does:

(i) set forth in narrative form the physical condition of the entire property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that I/we examined;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition of the property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that I/we examined;

(iii) not omit any material fact;

(iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment or suppression;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) not contain any representation or statement which is false, where I/we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statements made.

(2) The certification must be in the form below for a property undergoing rehabilitation:

The sponsor of the offering plan for cooperative ownership of the captioned property retained my/our firm to prepare a report disclosing the condition of the property when rehabilitated (the "report"). I/We visually inspected the property on _____, examined the building plans and specifications that were prepared by _____, dated _____, and prepared the report dated _____, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the report.

I/We understand that I/we am/are responsible for complying with article 23-A of the General Business Law and the regulations promulgated by the Attorney General in Part 21 insofar as they are applicable to this report.

I/We have read the entire report and investigated the facts set forth in the report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

I/We certify the report does:

(i) set forth in detail the condition of the entire property as it will exist upon completion of rehabilitation, provided rehabilitation is in accordance with the plans and specifications that I/we examined;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition of the property as it will exist upon completion of rehabilitation, provided rehabilitation is in accordance with the plans and specifications that I/we examined;

(iii) not omit any material fact;

(iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment or suppression;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) not contain any representation or statement which is false, where I/we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statements made.

(3) The certification must be in the form below for a property being sold in "as is" condition or undergoing minimal rehabilitation.

The sponsor of the offering plan for cooperative ownership of the captioned property retained my/our firm to prepare a report describing the condition of the property (the "report"). I/We visually inspected the property on _____, and prepared the report dated _____, a copy of which is intended to be incorporated into the offering plan so that prospective purchasers may rely on the report.

I/We understand that I/we am/are responsible for complying with article 23-A of the General Business Law and the regulations promulgated by the Attorney General in Part 21 insofar as they are applicable to this report.

I/We have read the entire report and investigated the facts set forth in the report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

I/We certify the report does:

- (i) set forth in narrative form the physical condition of the entire property;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition of the property;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;
- (v) not contain any fraud, deception, concealment or suppression;
- (vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and
- (vii) not contain any representation or statement which is false, where I/we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statements made.

(d) Include in the body of the plan a certification subscribed and sworn to by an expert concerning the adequacy of schedule(s) B (and B-1) in the following form. The expert's experience must include management of cooperatives, or condominiums or rental properties. Include the number of properties managed and length of time managed together with other relevant real estate experience, qualifications and licenses. Include references to schedule B-1 only if applicable. Alternative language for new construction or major rehabilitation is in parentheses.

The sponsor of the cooperative offering plan for the captioned property retained my/our firm to review schedule(s) B (and B-1) containing projections of income and expenses for the first year of cooperative operation.

I/We understand that I/we am/are responsible for complying with article 23-A of the General Business Law and the regulations promulgated by the Attorney General in Part 21 insofar as they are applicable to schedule(s) B (and B-1).

I/We have reviewed the schedule(s) and investigated the fact set forth in the schedule(s) and the facts underlying it/them with due diligence in order to form a basis for this certification.

I/We certify that the projections in schedule(s) B (and B-1) appear reasonable and adequate based on present prices adjusted to reflect continued inflation and present levels of consumption for comparable units similarly situated.

I/We certify that this certification and all documents prepared by me/us hereafter that concern the schedule(s) do:

- (i) set forth in detail the terms of the transaction as it relates to the schedules and be complete, current and accurate;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;
- (iii) not omit any material fact;
- (iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment or suppression;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances; and

(vii) not contain any representation or statement which is false, where I/we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representations or statements made.

I/We further certify that I am/we are not owned or controlled by and have no beneficial interest in the sponsor and that my/our compensation for preparing this certification is not contingent on the conversion of the property to a cooperative or on the profitability or price of the offering. I/We understand that a copy of this certification is intended to be incorporated into the offering plan so that prospective purchasers may rely on it.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.