

MEMORANDUM

TO: REF Attorneys and Paralegals

DATE: 1/10/86

FROM: Nancy Kramer
Mary Sabatini DiStephan *MSD*

RE: Effectiveness Notices

Sponsors may declare plans for occupied buildings effective by either filing an amendment to the plan or by serving notice on all tenants and non-tenant purchasers, followed by the submission of an amendment to the Department of Law within five days. (13 NYCRR Section 18.3 (r)). When sponsors choose the service of notice, option, they sometimes include in the notice some things that should not be there. For example, they may include a closing date-- this is inappropriate since the sponsor cannot close on the building until the Department has accepted the effectiveness amendment, and the sponsor cannot predict when that will be. Sponsors also frequently state when the balance of the purchase price is due, and purchasers should not have to pay the money before the closing date is finally set.

Therefore, sponsors should be guided to draft effectiveness notices that state simply that the plan is declared effective on a given date, upon the receipt of subscription agreements by more than 15% (or 51%) of purchasers, and that the date of closing and other details will be found in an amendment to the plan that will be out soon.