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THE NEW YORK CITY COUNCIL
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COMMITTEE ON FINANCE
JULISSA FERRERAS, CHAIR

May 29, 2014

PRECON. INT

By: Ignizio, Ferreras, Matteo, Treyger, Rose, Richards, Maisel, Deutsch, Menchaca, Chin, Vacca, and Ulrich
(in conjunction with the Mayor)

TITLE:

To amend the administrative code of the city of New York, in relation to a partial abatement of real property taxes on real property that was rebuilt after being seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more

ADMINISTRATIVE CODE:

Adds a new section §11-243.1 to the Administrative Code of the city of New York.

Background

Pursuant to State Real Property Tax Law, property owners are safeguarded from large increases in the valuation of their property. Smaller properties have increases in their assessments capped, while larger properties have changes in their valuation phased-in over a 5 year period.

However, these protections do not apply to physical changes, such as repairs and construction. However, these safeguards only apply to changes in valuation due to market forces; changes due to physical changes and construction are not subject to the aforementioned protective caps and phase-ins. The rationale behind this distinction is that a property owner makes a proactive decision when undertaking physical improvements that raise the value of his or her property and are therefore able to plan for the associated increase in assessment that the improvement causes. Increases in valuation due to market conditions on the other hand are largely outside the control of the property owner.

The destruction and subsequent rebuilding triggered by Super Storm Sandy has resulted in a number of physical changes to properties that have affected their valuation. Prior to the storm, because of the assessment caps and phase-ins, a typical residential property may have had an assessment that was slowly increasing over the past several years, and would have likely grown for a number of years more before it finally reflected the true value of the home. After the storm, however, and after the necessary rebuilding was made, many property owners saw, or will see, their assessment jump to the target value. This is true when the property owner simply rebuilds the property to put it in pre-storm condition.

In effect, Sandy has short circuited the protections generally provided to property owners and will cause large assessment increases on properties that would not have seen such increases had the storm not occurred. It should be noted that as Class 1 (1 to 3 family homes) and Class 2 (other residential properties) with less than 11 units have the stronger protections of caps, they are more likely to be adversely affected by this “short circuiting” than the large Class 2 and Class 4 buildings.

Preconsidered Int.

For Fiscal Year (FY) 2015 only, this bill would provide real property tax relief to New York City residents who repaired or rebuilt properties that were severely damaged by Super Storm Sandy. In order to assist property owners who saw their assessed value increase to a level higher than its pre-

storm level as a result of repairs due to Sandy damage, this bill provides that the Commissioner of Finance shall grant a partial abatement of real property taxes so that the owners of these properties will not incur such an increase in real property taxes for fiscal year 2015 over the bill they received in Fiscal 2013.

Section one of this bill adds a new section 11-243.1 to the Administrative Code authorizing the Commissioner of Finance to grant a partial abatement of real property taxes for certain class one, two and four properties.

Class 1, Class 2, and Class 4 properties which:

- The Department of Finance reduced the assessed valuation of the property in FY 14 as a result of Sandy damage;
- In FY 15, the Department of Finance increased the assessed valuation of the building as result of repairs for such damage;
- The assessed valuation of the building in FY 15 exceeds the value of the property in FY 14; and
- Owners of such property made repairs on or before January 5, 2014.

To the extent the square footage used to determine the assessed valuation of the building on the property for fiscal year 2015 exceeds that for fiscal year 2013, the bill provides that the Department of Finance will recalculate the abatement to reduce the abatement by the portion of the tax for fiscal year 2015 that is attributable to the excess square footage of the building.

The bill also includes provisions for the correction of erroneous abatements and the collection of the amount of abatements granted in error, and for the adjustment of abatements granted to properties for which the assessed valuation and the corresponding real property tax have been reduced.

Effect of the Preconsidered Introduction

According to the Department of Finance, it is estimated a total of 7,456 tax parcels (1,684 buildings) will receive the abatement:

- Class 1: 2,109 parcels (1,458 buildings)
- Class 2: 4,931 parcels (126 buildings)
- Class 4: 416 parcels (100 buildings)

The amount of the abatement will reflect the increase in the real property tax attributable to improvements (repairs made for Sandy damage) on the eligible property. (The calculation varies slightly for the large Class 2 properties with more than 10 units, and Class 4 properties). This abatement will provide an estimated \$4,083,018 in much-needed tax relief to 1,684 buildings. 1,458 of those buildings are 1 to 3 family homes who will see an estimated average abatement of \$1,077 off their tax bill.

Class 1 and 2ABC Post-Exemption Tax Difference

Tax Class	All		
	Total Buildings	Parcels	Abatement
CLASS 1 CONDO	32	644	\$543,470
CLASS 1 OTHER	1,426	1,426	\$1,026,552
CLASS 2ABC (10 or less units)	68	108	\$359,696
All	1,526	2,178	\$1,929,718

Class 2_ and 4 Post-Exemption Tax Difference

Tax Class	All		
	Total Buildings	Parcels	Abatement
CLASS 2 CONDO	23	4,772	\$403,736
CLASS 2 OTHER	35	35	\$917,437
CLASS 4 CONDO	30	317	\$341,107
CLASS 4 OTHER	70	70	\$491,020
All	158	5,194	\$2,153,300
TOTAL	1,684	7,372	\$4,083,018

Preconsidered Int. No.

By Council Members Ignizio, Ferreras, Matteo, Treyger, Rose, Richards, Maisel, Deutsch, Menchaca, Chin, Vacca, and Ulrich (in conjunction with the Mayor).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to a partial abatement of real property taxes on real property that was rebuilt after being seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-243.1 to read as follows:

§ 11-243.1. Partial abatement for certain rebuilt real property seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more.

1. Generally. Notwithstanding any provision of any general, special or local law to the contrary, for the fiscal year beginning on the first of July, two thousand fourteen, the commissioner of finance shall grant a partial abatement of real property taxes in the amount provided in this section to eligible real property as defined in subdivision three of this section on the first of July, two thousand fourteen. If legal title to eligible real property is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property for purposes of this section. Notwithstanding any provision of article four of the real property tax law to the contrary, a property that is receiving benefits pursuant to any other section of article four of the real property tax law shall not be prohibited from receiving a partial abatement pursuant to this section if such property is otherwise eligible to receive such abatement.

2. Definitions. As used in this section:

a. “Actual assessed valuation” means the assessed valuation of real property prior to the calculation of any transitional assessed valuation pursuant to subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.

b. “Annual tax” means the amount of real property tax that is imposed on a property for a fiscal year, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law.

c. “Annual tax attributable to improvements” means the amount of real property tax that is imposed on a property for a fiscal year, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law, multiplied by a fraction, the numerator of which is equal to the assessed valuation of the property for such fiscal year that is attributable to the improvements on the property, and the denominator of which is the total assessed valuation of the property for such fiscal year.

d. “Assessed valuation” means the assessed valuation of real property that was used to determine the annual tax as defined in paragraph b of this subdivision, and which is not reduced by any exemption from real property taxes. For real property classified as class two or class four real property as defined in subdivision one of section eighteen hundred two of the real property tax law to which subdivision three of section eighteen hundred five of the real property tax law applies, unless otherwise provided, the assessed valuation is the lower of the actual assessed valuation as defined in paragraph a of this subdivision and transitional assessed valuation as defined in paragraph j of this subdivision.

e. "Assessed valuation attributable to improvements" means that portion of the assessed valuation of real property that was used to determine the annual tax attributable to improvements as defined in paragraph c of this subdivision, and which is not reduced by any exemption from real property taxes.

f. "Commissioner of finance" means the commissioner of finance of the city of New York, or his or her designee.

g. "Department of finance" means the department of finance of the city of New York.

h. "Improvements" means buildings and other articles and structures, substructures and superstructures erected upon, under or above the land, or affixed thereto, including bridges and wharves and piers and the value of the right to collect wharfage, crantage or dockage thereon.

i. "Total square footage of the improvements on the property" means, with respect to a fiscal year, the square footage used by the department of finance in determining the assessed valuation attributable to improvements on the property for such fiscal year.

j. "Transitional assessed valuation" is the assessed valuation calculated pursuant to subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.

3. Eligible real property. For purposes of this section, "eligible real property" means any tax lot that contained, on the applicable taxable status date, class one, class two or class four real property as such class of real property is defined in subdivision one of section eighteen hundred two of the real property tax law, as to which:

a. the department of finance reduced the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand thirteen from the assessed valuation attributable to improvements on the property for the fiscal year beginning on

the first of July, two thousand twelve as a result of damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve;

b. the department of finance increased the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen from the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand thirteen; and

c. the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen exceeds the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand twelve.

4. Amount of partial abatement. a. Except as provided in paragraph c of this subdivision, eligible real property shall receive a partial abatement of the real property taxes due on such property equal to the amount by which (1) the annual tax on the property for the fiscal year beginning on the first of July, two thousand fourteen exceeds (2) the annual tax on the property for the fiscal year beginning on the first of July, two thousand twelve.

b. Notwithstanding paragraph a of this subdivision and except as provided in paragraph c of this subdivision, the amount of the partial abatement of the real property taxes due on eligible real property classified as class two or class four real property as defined in subdivision one of section eighteen hundred two of this chapter to which subdivision three of section eighteen hundred five of this chapter applies shall be equal to the amount of (1) the increase in the actual assessed valuation attributable to an addition to or improvement of the property as provided in subdivision five of section eighteen hundred five of the real property tax law for the fiscal year beginning on the first of July, two thousand fourteen, (2) reduced by the increase in the actual

assessed valuation attributable to an addition to or improvement of the property as provided in subdivision five of section eighteen hundred five of the real property tax law for the fiscal year beginning on the first of July, two thousand fourteen, multiplied by a fraction, the numerator of which is the transitional assessed valuation for the fiscal year beginning on the first of July, two thousand thirteen, and the denominator of which is the actual assessed valuation for the fiscal year beginning on the first of July, two thousand thirteen, (3) multiplied by the real property tax rate that is applicable to the property for the fiscal year beginning on the first of July, two thousand fourteen. Eligible real property shall not be eligible for an abatement under this section if the fraction calculated in subparagraph two of this paragraph is equal to or greater than one.

c. In the event that the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen exceeds the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand twelve, the amount of the partial abatement shall be the amount computed by multiplying the amount calculated under paragraph a or b of this subdivision by a fraction, the numerator of which is equal to the amount of the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand twelve, and the denominator of which is equal to the amount of the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen.

d. For property held in the cooperative form of ownership, the abatement shall be credited to each unit therein in an amount equal to that proportion of the amount calculated under this subdivision that is attributable to such unit, as determined by the proportional relationship of the owner's share or shares of stock in the cooperative corporation that owns such real property to the total outstanding stock of the cooperative corporation.

e. Eligible real property shall not be eligible for an abatement under this section if the amount of the abatement calculated pursuant to this subdivision exceeds the annual tax on the property for the fiscal year beginning on the first of July, two thousand fourteen.

5. Recovery of erroneous abatement.

a. For purposes of this section, an “erroneous abatement” means that:

(1) an abatement was granted to a property that was not entitled to an abatement under this section, or

(2) an abatement was applied or calculated in error under this section. In such event, the amount of the erroneous abatement shall be equal to the difference between the amount of the abatement originally received and the amount to which the property was entitled.

b. If the commissioner of finance determines that a property received an erroneous abatement, he or she shall recover such erroneous abatement by deducting the amount of the erroneous abatement from any refund or rebate otherwise payable to the owner, and any balance of the amount of the erroneous abatement remaining unpaid shall constitute a tax lien on the real property, as of the due and payable date provided on the next tax bill mailed by the commissioner of finance containing such amount. If such amount is not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on such property shall be charged and collected on such amount from the due and payable date provided on such notice to the date of payment. Such tax lien shall be enforceable in accordance with the provisions of law relating to the enforcement of tax liens in any such city.

6. Reduction of assessed value. If the taxable assessed value of a property for the fiscal year beginning on the first of July, two thousand fourteen is reduced after the assessment roll applicable to such fiscal year becomes final, any abatement already granted pursuant to this

section shall be adjusted accordingly. The difference between the original abatement and the adjusted abatement shall be deducted from any credit otherwise due.

7. Rulemaking. The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

§ 2. This local law shall take effect on the same date as a chapter of the laws of 2014 amending the real property tax law relating to establishing a partial abatement of real property taxes on real property that was rebuilt after being seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more, as proposed in legislative bill number S.7257, takes effect.

TE 5-20-14

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