



Legislation Text

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Res. No. 64

Resolution calling on the New York State Legislature to not renew section 421-a of the Real Property Tax Law.

By Council Members Cabán, Sanchez, Farías, Stevens, Hanif, Won, De La Rosa, Joseph, Nurse, Restler, Barron, Avilés, Krishnan, Hudson, Ossé and Richardson Jordan

Whereas, Section 421-a of the Real Property Tax Law was first enacted in 1971 to promote new residential development amid the city's fiscal crisis; and

Whereas, There were concerns at the time said that this would subsidize luxury development, and nearly 50 years later 421-a continues to subsidize luxury housing although the economic conditions of our city have drastically changed, with increasing housing prices; and

Whereas, When first created, 421-a did not have any affordability requirements as many believed that any construction would benefit the City's economy, but later it was amended to incorporate affordability requirements as the economy recovered in the 1980s and interest in constructing housing in the City grew; and

Whereas, In 1987, the program created the Geographic Exclusion Area in midtown Manhattan as part of 421-a, so that developers could only obtain the tax exemption by either including affordable housing or purchasing a certificate that would allow for affordable housing elsewhere; and

Whereas, In 2007, 421-a was revised again by abolishing the certificate program and expanding the Geographic Exclusion Area to include all of Manhattan and parts of other boroughs, with tax breaks extended up to 25 years consisting of 21 years of property tax exemptions and four years of phasing back those previously exempted property taxes; and

Whereas, In 2017, then-Governor Andrew Cuomo rebranded the program as Affordable New York and the law was amended to extend the provided tax breaks while adding construction wage standards and deeper

affordability requirements on some projects, but also created an option that included only middle-income units and no low-income units; and

Whereas, Research conducted by the Furman Center at New York University School of Law indicates that under Affordable New York, a majority of advertised income-restricted units were set at the middle-income rents of 130 percent Area Median Income, or AMI; and

Whereas, Such an income correlates to a household income of \$155,090 for a family of four and a monthly rent for a two-bedroom unit of nearly \$3,400; and

Whereas, After the expiration of the tax exemption, the affordable units lose their affordability protections and can be reverted to market rate housing once the tenant in place at the time of expiration leaves the unit; and

Whereas, 421-a cost the City \$1.7 billion in forgone revenue in 2021, making it the single biggest tax break in the New York State budget; and

Whereas, The Community Service Society recently released a report demonstrating that the costs of 421-a have only continued to grow relative to the city budget, growing over 400% adjusted for inflation since 1990; and

Whereas, 421-a fails to produce a significant amount of truly affordable housing, as 75% of New Yorkers cannot afford the units set at 130% AMI, which comprise the majority of units created since the 2017 law; and

Whereas, The Independent Budget Office found that if the City had provided an affordable housing developer with a cash grant equal to the \$65.6 million 421-a tax expenditure provided over ten years to One57, a luxury tower overlooking Central Park, to build 66 affordable housing units, the city could have built 370 affordable apartments; and

Whereas, 421-a also comes with many concerns around good governance and tenants' rights, with

tenants often not knowing their rights and being vulnerable to displacement due to the various legislation changes and related options; and

Whereas, 421-a has been subject to several investigations that have found the program to lack resources for enforcement, leading to many instances of fraud and neglected requirements, with landlords failing to register apartments as rent-stabilized while continuing to receive the associated tax benefits; and

Whereas, 421-a will expire on June 15, 2022 barring action by the New York State Legislature; and

Whereas; While Governor Kathy Hochul announced her intention to end 421-a in her 2022 State of the State address, her alternative proposal renumbers the 421-a program as Real Property Law § 485-w and renames it as Affordable Neighborhoods for New Yorkers while still retaining many of the structural problems within 421-a; and

Whereas, Option C of the Governor's proposal would provide a full 40-year property tax exemption for developers who build co-ops or condos at 130% of AMI, which would amount to a two-bedroom apartment costing nearly \$520,000, with the owner paying nearly \$4,000 a month in housing costs; and

Whereas, Data shows that those struggling the most to pay rent each month are lower-income New Yorkers who cannot find safe, affordable homes in the city housing market; and

Whereas, The expiration of 421-a creates an opportunity for the New York State Legislature to review problems with New York City's property tax system and finally make long overdue changes; now, therefore be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to not renew section 421-a of the Real Property Tax Law upon its expiration.

CCK
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