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**State Assembly Hearing on 421-a Tax Exemption**

**John McCarthy, Chairman of Tax Incentives Committee  
 Citizens Housing and Planning Council of New York**

Statement to the

**New York State Assembly  
 Standing Committee on Real Property Taxation and  
 Standing Committee on Housing  
 June 8, 2006**

Good afternoon Chairwoman Galef, Chairman Lopez, and members of the committees. My name is John McCarthy and I am the chair of the Tax Incentives Committee of the Citizens Housing and Planning Council, a nonprofit, public policy research group that has been involved in improving housing and neighborhood conditions in the five boroughs since 1937.

CHPC has been a strong and vocal supporter of the 421-a program since its inception in 1971. This vital construction incentive has produced over 112,000 housing units throughout New York City. Our analyses of the program have influenced favorable amendments. In the early 1980s, CHPC proposed changes to the 421-a program meant to bolster citywide rental production by granting a longer exemption period for developments that included affordable housing. The State Legislature's 1985 changes to 421-a included such a provision. Our 2002 recommendations proposed stimulating housing production without direct subsidy through the reinvigoration of the 421-a and Inclusionary Housing programs by allowing them to be used simultaneously. We also suggested allowing eligible 421-a projects to select from a sliding scale of affordable set-asides and income targets, depending on local market conditions. For example, a housing provider could choose the traditional 80/20 formula—reserving a fifth of the apartments for very low income families—or choose a higher set-aside such as 40 percent of the units for families earning up to 100 percent of median area income. Key elements of our 2002 proposal were incorporated in the Greenpoint-Williamsburg rezoning, which allows the simultaneous use of 421-a and density bonuses in addition to giving developers a choice of affordable set-aside options.

Now in 2006, CHPC's Tax Incentives Committee has again been actively reviewing 421-a in order to formulate sensible recommendations to the active discussion of this program. Although our committee has not yet finalized our 421-a recommendations, we have reached agreement on

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several guiding principles for amendments to the program. They include:

1. While tax incentives are not the most efficient way to subsidize housing, the 421-a partial tax exemption is needed to offset the high tax rate of multifamily housing. Multifamily developments of 5 units or more are taxed more heavily than 1-4 family housing. Currently, property taxes are a substantial portion of the total operating expenses and in some buildings, they equal or even exceed the sum of all other costs. Until the taxation system is overhauled, the 421-a tax benefits are necessary to facilitate the construction of multifamily rental housing.
2. In order to avoid interrupting the momentum of new residential development now underway, any change to 421-a should have an effective date that in effect grandfathers new construction on parcels recently acquired. This is because land acquisition prices generally take account of the presumed development value of a parcel. This would include the presumed value of 421-a benefits. A statutory amendment that substantially reduced benefits—and did so immediately—would erode or eliminate the financial viability of parcels purchased on the expectation of 421-a benefits under today’s law. This could cause a suspension of development of those parcels. To avoid that, a new statute might grandfather construction if the developer purchased the land within six months before the new law’s effective date—assuming the development proceeds in a timely fashion. For example, foundations might be required to be in the ground within two years after enactment. Any revisions to 421-a benefits would of course apply prospectively to land acquired after passage of the new law. Handling the effective date of amendments in this way would prevent a slowdown in development on recently acquired parcels.
3. The Geographic Exclusion Zone perhaps should be expanded, but CHPC does not yet have a specific recommendation on boundaries. In the GEZ—however it is defined—the revised 421-a program should function as an affordable production incentive so that only developments that include affordable units receive 421-a benefits. CHPC has traditionally been critical of a piecemeal approach to planning, zoning, and housing subsidy programs. Substantive changes to an important program like 421-a should not be made on a neighborhood-by-neighborhood basis, subject to the political pressures associated with a rezoning.
4. As we proposed in 2002, the program should better adapt itself to market differences in various neighborhoods by permitting various combinations of affordability levels and proportions of affordable units. For example, 10 percent of the units might be affordable at lower income levels, 15 percent at a slightly higher income range, and so on. We at CHPC are examining the actual financing impacts of various permutations, and do not yet have a specific recommendation.
5. We recognize the inefficiencies of the 421-a Negotiable Certificate program. Consideration should be given to other ways in which the City could more efficiently capture value from luxury developments for affordable housing. For example, the City could collect tax revenues from luxury development within the GEZ and allocate them to an affordable housing fund for a limited period. The earmark could diminish over time until a certain point when all property taxes collected from these luxury developments would flow into the City's general fund.

6. Outside of the Geographic Exclusion Zone, we believe that 421-a benefits are necessary to stimulate development. In part this is due to the City's tax policy, which bears heavily on Class II (over 5 unit) projects. We are still evaluating financial models of current developments. CHPC's final recommendations will be based on these analyses. The general principle that is guiding our own analyses, is the one we want to urge on others at today's hearing. This is that City tax policy must continue to support production of new housing units and amendments of 421-a should be judged on whether they serve that purpose.

The 421-a partial tax exemption program continues to serve a pivotal role in residential development in New York City. While much has changed in the real estate market since the program was begun 35 years ago, many areas of the city continue to need the tax benefits to facilitate construction while others need 421-a to stimulate mixed-income housing for low- and middle-income residents. CHPC urges the committees to adopt thoughtful and comprehensive changes to the 421-a program to ensure its continued facilitation of housing production.