

## NOTICE OF PUBLIC HEARING

**Subject:** Notice of Opportunity to Comment on Proposed Amendments to Rules Governing City-Aided Limited-Profit Housing Companies

**Date / Time:** September 13, 2011  
10:00 a.m. - 12:00 p.m.

**Location:** Department of Housing Preservation and Development  
100 Gold Street  
First Floor, Room 1R  
New York, NY 10038

**Contact:** Julie Walpert  
Assistant Commissioner  
Department of Housing Preservation and Development  
100 Gold Street, Room 7-L2  
New York, NY 10038

### Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development by §1802 of the New York City Charter and Sections 32(3) and 32-a of the Private Housing Finance Law, and in accordance with the requirements of § 1043 of the New York City Charter, the Department of Housing Preservation and Development intends to promulgate amended rules for City-Aided Limited-Profit Housing Companies. The proposed rule amendments were included in HPD's 2011-12 Regulatory Agenda.

### Instructions

- Prior to the hearing, you may submit written comments about the proposed rule to Ms. Walpert by mail or electronically through NYC RULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules) by September 13, 2011.
- If you wish to testify at the hearing, please notify Ms. Walpert by September 13, 2011.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Ms. Walpert by September 1, 2011.
- Written comments and an audiotape of oral comments received at the hearing will be available after September 13, 2011 at the office of Ms. Walpert.

## Statement of Basis and Purpose

### Proposed Rule Summary:

- Grants a preference for admission to Mitchell-Lama projects with an open waiting list to any veteran who has served in the armed forces of the United States.
  - Replaces (eliminates) the existing preference for only disabled veterans.
- Applicants for succession also must have occupied and must continue to occupy the home as his or her primary residence.
- Any person claiming to be a successor must appear on HPD income affidavits as well as on any other income document, such as re-certifications and Section 8 forms submitted by the tenant/cooperator to HPD or any other governmental agencies.
- Tenant/cooperators who never report their actual income on HPD income affidavits will be subject to a penalty fee. This penalty fee cannot be more than \$150 per month. The housing company will give half of it to the managing agent to compensate for additional administrative work.
- HPD is authorized to periodically require housing companies to prepare a physical condition report. The report will analyze the property's physical condition and provide a plan to address any issues, including financing.
- Increases the threshold amount for HPD contract approval to \$100,000 for any size development. HPD still may require individual housing companies to submit contracts over \$5,000 for approval. The proposed rule also increases the maximum total fees that may be charged by professionals retained by a Tenants Association (as part of the rent/carrying charge increase process) from \$3,250 to \$5,000 for developments that are under 500 units and from \$4,000 to \$6,000 for developments that are 500 or more units.
- Replaces the current reserve requirements for housing companies with a new Capital Repair and Replacement Reserve Account requirement of \$300 per dwelling unit per year and a minimum balance of \$1000 per dwelling unit. These provisions also require housing companies to deposit 3% of the rent roll into the Capital Repair and Replacement Reserve Account on a monthly basis until the balance equals 25% of the rent roll. This simplified calculation reflects current practices for maintaining reserves.
- Students residing at a college will only be entitled to succession rights if they occupied the Mitchell-Lama apartment as a primary residence for the two years immediately prior to their enrollment as a full-time student. This requirement would be consistent with the current rules, which specify that family members are only protected from disqualification for succession to a Mitchell-Lama apartment by temporary relocations.
- Housing companies and managing agents are no longer required to try to find tenants who have vacated in order to collect outstanding payments. This regulatory requirement is very costly and often fails to recover any money from the vacating tenant.
- Requires mutual housing companies to get shareholder approval for expenditures under

\$100,000 at any one time for the preparation of a feasibility study regarding dissolution and/or reconstitution, mandates that certain analyses be included in such feasibility study and requires shareholder approval of the amount of money to be spent on the preparation and submission of an offering plan investigating dissolution and/or reconstitution. Even if a housing company already has voted for the preparation and submission of an offering plan, any additional expenditures relating to dissolution and/or reconstitution after the effective date of these amendments must comply with the new procedures.

- Gives HPD the authority to approve licensing agreements and imposes the same duties and obligations on licensees as are currently imposed on commercial tenants. The most common licensing agreements utilized in Mitchell Lama developments are those related to the laundry rooms and mobile phone antennae.
- The proposed rule amendments implement Chapter 477 of the Laws of 2010 regarding the disclosure of bedbug infestation history.

Mathew M. Wambua, Commissioner  
August 3, 2011

### The Proposed Rule

**Section one. Paragraph (12) of subdivision (h) of Section 3-02 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(12) Except for the priorities mentioned below, the waiting list by apartment size in chronological order by date of receipt of application or order of selection by lottery, as applicable, shall be maintained in the following manner:

TYPE APARTMENT DESIRED					
(Example: 1 Bedroom)					
Date of Request	Name	Address	Business Telephone	Residence Telephone	Veteran[ Date of Discharge] <u>yes or no</u>
1/1/69	J. Doe	XXX Ave. Y	123-4567	765-5432	[5/6/68] <u>yes</u>

Selections of tenants or cooperators must be made from this list in chronological order or order of selection by lottery, as applicable.

**§ 2. Paragraphs (2) and (2-a) of subdivision (i) of Section 3-02 of Chapter 3 of Title 28 of the Rules of the City of New York are amended to read as follows:**

(2) *Second priority.* Pursuant to § 31(7) of the Private Housing Finance Law, [honorably discharged veterans (or their surviving spouse or domestic partner) who:

(i) have served in the armed forces of the United States for a period of at least six months (or any shorter period which terminated due to death or injury incurred in such service), provided some portion of the period of service was between December 22, 1961 and May 7, 1975, and

(ii) have been thereafter discharged or released there from under conditions other than dishonorable, or died in such service, not more than five years prior to the time of application for admission to such project. The preference granted under this law applies to all veterans (or their surviving spouse or domestic partner) regardless of whether they served in Vietnam, the United States or in any other country, provided the veteran meets the conditions outlined above.

(2-a) *Third priority.* Pursuant to § 31(7-a) of the Private Housing Finance Law,] preference in admission to a project with an open waiting list, as determined by HPD, shall be given to [disabled] veterans as such term is defined pursuant to § 85 of the Civil Service Law, and for projects with a closed list, as determined by HPD, preference shall be given upon the opening of the waiting list to such [disabled] veterans.

**§ 3. Subparagraph (iv) of paragraph (4) and paragraph (5) of subdivision (n) of Section 3-02 of Chapter 3 of Title 28 of the Rules of the City of New York are amended to read as follows:**

(iv) spent less than an aggregate of one hundred eighty-three days in the preceding calendar year in the City at such dwelling unit (unless such individual is in active service in the armed forces of the United States or took occupancy at such dwelling unit during the preceding calendar year). However, no dwelling unit may be considered the primary residence of the tenant/cooperator unless the tenant/cooperator's name is listed on income documentation that must be sent by the tenant/cooperator to the Department or to any other governmental agencies (for example: income affidavits, re-certifications or Section 8 forms) for the most recent preceding year for which such documentation was required. No dwelling unit may be considered the primary residence of the tenant/cooperator unless the tenant/cooperator provides proof that he or she either filed a New York City Resident Income Tax return at the claimed primary residence for the most recent preceding taxable year for which such return should have been filed or that the tenant/cooperator was not legally obligated to file such tax return pursuant to § 1705(b)(1)(A) and § 1751(a) of the Administrative Code due to residency in a foreign country or pursuant to § 11-1751(a) of the Administrative Code and § 6-01 of the Tax Law because the tenant/cooperator's income for such year was below that required for the filing of a return or pursuant to § 893 or 894 of the Internal Revenue Code due to employment by a foreign government or international organization or due to any treaty obligation of the United States which applies to such taxpayer. The tenant/cooperator whose residency is being questioned will be obligated to provide proof that his or her apartment is his or her primary place of residence, including, but not limited to certified New York State income tax returns, utility bills, and voter registration data.

(5) The terms and conditions of all licensing agreements and all tenancies, including tenancies of commercial and professional space, shall be subject to HPD written approval.

**§ 4. Paragraph (3) of subdivision (p) of Section 3-02 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(3) Unless otherwise prohibited by occupancy restrictions based upon income limitations pursuant to federal, state or local law, regulations or other requirements of governmental agencies, if the tenant/cooperator has permanently vacated the apartment, any member of such tenant/cooperator's family, who has resided with the tenant/cooperator in the apartment as a primary residence, as determined by § 3-02 (n)(4) of these rules, for a period of not less than two years immediately prior to the tenant/cooperator's permanent vacating of the apartment, and [has appeared] whose name is listed on [the] any income documentation submitted by such tenant/cooperator to the Department or to any other governmental agencies (for example: income affidavits, re-certifications or Section 8 forms), for at least the two consecutive annual reporting periods immediately prior to the tenant/cooperator's permanent vacating of the apartment or where such person seeking succession rights is a senior citizen or disabled person, for a period of not less than one year immediately prior to the tenant/cooperator's permanent vacating of the apartment, and has appeared on [the income affidavit] such income documentation for at least the reporting period immediately prior to the permanent vacating of the apartment by the tenant/cooperator, or from the inception of the tenancy or commencement of the relationship if for less than such periods, and the apartment was and continues to be the primary residence of the member of the tenant/cooperator's family that resided with such tenant/cooperator, may request to be named as a tenant/cooperator on the lease and where applicable on the stock certificate. In the event that HPD has authorized the housing company not to collect surcharges based on income [affidavits] documentation, the family member shall be asked to provide other evidence of occupancy for the required period of time. The burden of proof is on said family member to show use of the apartment as his or her primary residence during the required period to be eligible to succeed to possession.

**§ 5. Subparagraph (ii) of paragraph (5) of subdivision (p) of Section 3-02 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(ii) is enrolled as a full-time student, and the family member resided in the subject apartment as a primary residence (as determined pursuant to paragraph 4 of subdivision (n) of this section) for at least two years immediately prior to the family member's enrollment as a full-time student;

**§ 6. Paragraph (1) of subdivision (d), and subdivision (e) of Section 3-03 of Chapter 3 of Title 28 of the Rules of the City of New York are amended to read as follows:**

(d) *General requirements.*

(1) In the event that a tenant/cooperator [shall] fails to return a fully completed affidavit by April 30th of each year, the income of such tenant/cooperator [shall] will be presumed to have exceeded the maximum allowable income by 150 percent or more. Written notice [shall] will [thereupon] be given informing such tenant/cooperator that the maximum surcharge will be imposed effective July 1st. In the event completed income affidavits are submitted after April 30th but prior to June 30th, the maximum surcharge will not be imposed. However a non-refundable administrative [fee] charge, payable to the housing company, [shall] will be [charged] applied. This [fee] charge [shall] cannot exceed \$50.00. The housing company may remit half of any such [fee] charge collected to the managing agent to compensate for the additional administrative work.

In the event fully completed income affidavits are submitted after June 30th, a correction to

the maximum surcharge billing [shall] will be made effective the first day of the month following the submission of such income affidavit. However, a non-refundable administrative [fee] charge, payable to the housing company, [shall] will be [charged] applied. This [fee] charge [shall] cannot exceed \$150.00 for each month after June 30th in which the tenant/cooperator has not submitted a fully completed income affidavit. This charge must be made payable to the housing company. The housing company may remit half of any such [fee] charge collected to the managing agent, in accordance with the terms of the applicable contract, to compensate for the additional administrative work. In extenuating circumstances, HPD may permit reimbursement of excess surcharge to the tenant/cooperator [in extenuating circumstances].

For purposes of this paragraph, an income affidavit in which the tenant/cooperator's household income is not disclosed is not a fully completed income affidavit.

(e) *Removal.*

(1) In the event that the income of a household in occupancy shall increase and exceed the maximum prescribed by these rules by more than twenty-five percent based on the latest existing rent/carrying charges, such household shall be subject to removal from the dwelling unit occupied by them. However, such household may be permitted to remain in occupancy until such income exceeds the maximum prescribed by these rules by more than fifty percent, if the housing company with the approval of HPD shall determine that removal would cause hardship to such household.

(2) Households living in a development under a lease for ninety-nine years renewable, or in perpetuity, or by reason of ownership of stock in a housing company may, with the approval of HPD, be permitted to remain in occupancy for not more than three years after such increase in income exceeds the maximum prescribed by these rules by more than fifty percent unless such occupancy is extended by the housing company with the approval of HPD. Any such household required to vacate an apartment because of excessive income as herein provided shall be discharged from liability on any note, bond, or other evidence of indebtedness relating thereto and shall be reimbursed by the housing company for all sums paid by such household to the housing company on account of the purchase of stock or income debentures as a condition of such occupancy.] Reserved.

**§ 7. Subdivision (a) of Section 3-05 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(a) *Rent collection.*

(1) Rent/carrying charges of tenant/cooperators is payable on the first day of each month.

(2) It is the responsibility of the managing agent to collect rent/carrying charges and take the necessary actions to collect past due rent/carrying charges.

(3) A charge for late payment of rent/carrying charges may be implemented by each housing company. In order to implement a late charge, a written request must be submitted to HPD setting forth the dollar amount of the proposed charge and the date of the month it is to be billed. In the case of a mutual housing company, a Board of Directors Resolution certified and acknowledged by the Secretary of the Corporation setting forth the adoption of the late charge by the Corporation shall be submitted to HPD. HPD shall respond in writing. Late charges shall be considered additional rent.

[(4) Where a tenant has vacated, whether voluntarily or involuntarily, it is still the responsibility of the managing agent and counsel to locate such tenant and to collect all sums due the housing company. In achieving this end, consideration should be given to utilizing the services of a credit bureau to locate a vacated tenant, ascertain his or her current employment and discover available assets, if any. Judgments should be secured, and garnishments placed, if feasible.]

**§ 8. Subdivision (b) of section 3-07 of Chapter 3 of Title 28 of the Rules of the City of New York is amended by adding a new paragraph (1-a) to read as follows:**

(1-a) Periodically, HPD will require each housing company to submit a physical condition report prepared by an independent qualified consultant acceptable to HPD. The report will determine the physical condition of the property and all appurtenant equipment. The report must specify all items and equipment that are in need of repair or replacement or which have exceeded their useful lives or are projected to need repair or replacement within five years. The report must also include a plan to address its findings, including an explanation of how any necessary work will be financed.

**§ 9. Paragraph (2) of subdivision (b) of section 3-07 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(2) Contracts for building services, repairs, replacements, redecorating or improvements and supplies shall be let on the basis of lowest cost compatible with quality of performance, material and workmanship, on the basis of no less than three competitive bids, according to the following schedule:

[In housing companies with fewer than five hundred (500) dwelling units, contracts over \$15,000 shall be submitted for HPD written approval.

In housing companies with five hundred (500) dwelling units or greater, c]

Contracts over [\$30,000] \$100,000 shall be submitted for HPD written approval. The housing company's submission shall include the three bids plus a contract executed by the successful bidder as well as the other documents as set forth below.

Notwithstanding the foregoing, HPD reserves the right to require any individual housing company to submit for approval any or all contracts over \$5,000.

In the case of a mutual housing company, the submission shall be accompanied by

(i) a certified copy of resolution of the housing company's Board of Directors acknowledged by the Secretary of the Corporation, approving the contract, bearing the housing company's corporate seal and

(ii) the housing company's attorney's certification that the proposed contract is in compliance with the rules of HPD.

In the case of a rental development, the president or managing general partner of the housing company or his or her duly authorized designee must sign the contract.

The following language shall be included in all contracts for building services, repairs, replacements, redecorating and improvements: "Material, equipment and workmanship shall be subject to the inspection and approval of HPD or its duly authorized agent at the

discretion of HPD during the progress of the work and before final payment is made on the contract."

Every contract subject to HPD approval shall contain the following language: "This agreement is subject to written approval by HPD. No work shall commence until this agreement is approved by HPD."

**§ 10. Section 3-08 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

§ 3-08 Reserves [and Escrow Accounts].

(a) *Reserves.* Each housing company shall be required to maintain a capital repair and replacement reserve account, [comprised of three components, each of which shall be funded as follows:

(1) Mutual housing companies:

(i) Reserve for replacements. Ten dollars (\$10) per rental room per year, plus interest earned on all reserve fund investments.

(ii) Reserve for painting and decorating. Twenty-five dollars (\$25) per dwelling unit per year.

(iii) Reserve for vacancy and collection losses and contingencies. Three percent (3%) of the rent roll until the accumulation in this reserve is equal to twenty-five percent (25%) of the rent roll; and thereafter, such deposits as are necessary to maintain the reserve at the stated level.

It should be understood that the reserve component for vacancy and collection losses and contingencies is primarily set aside for the funding of "contingencies" which are defined as unexpected occurrences or emergencies.

(2) Rental Housing Companies.

(i) Reserve for replacements. Stoves and refrigerators--fifteen dollars (\$15) per rental room per year. Dishwashers--forty dollars and fifty cents (\$40.50) per apartment per year. Air conditioners--seventy-five (\$75) per air conditioner per year; plus interest earned on all reserve fund investments, where applicable.

(ii) Reserve for painting and decorating. Thirty-five dollars (\$35) per rental room per year.

(iii) Reserve for vacancy and collection losses and contingencies. Three percent (3%) of the rent roll, until the accumulation in this reserve is equal to twenty-five percent (25%) of the rent roll; and thereafter, such deposits as are necessary to maintain the reserve at the stated level.

It should be understood that the reserve component for replacements in a rental development applies to replacement of appliances primarily, rather than replacement of systems. The "contingency" reserve component is set aside for unexpected occurrences or emergencies.]

(1) Deposits.

(i) Annually, each housing company must deposit into the capital repair and replacement reserve account three hundred dollars (\$300) per dwelling unit in equal monthly installments.

(ii) If the capital repair and replacement reserve account balance is less than one thousand dollars (\$1000) per dwelling unit, the housing company must deposit additional funds on a monthly basis to raise the capital repair and replacement reserve account balance to one thousand dollars (\$1000) per dwelling unit; and



(iii) The housing company must also deposit three percent (3%) of the rent roll into the capital repair and replacement reserve account on a monthly basis until the balance equals twenty-five percent (25%) of the rent roll. The housing company must make such deposits as are necessary in order to maintain the capital repair and replacement reserve account at such level.

(2) Disbursements. No disbursements from the capital repair and replacement reserve account can be made without prior written authorization by HPD.

(b) *Bank resolutions.* The resolution filed with the bank shall contain, in addition to the clauses required by the bank, the following clauses: Further resolved, that withdrawals from such reserve account be accompanied by "Authorization for Expenditure of Funds" signed by a designated HPD official of, and that duplicate copies of monthly bank statements shall be forwarded to HPD's Division of Housing Supervision, upon HPD's request; that when an investment in securities is contemplated, withdrawal shall be made upon presentation of "Authorization for Expenditure of Funds;" that the bank shall make the investment, shall hold the securities in safekeeping and shall deposit to such account the proceeds realized on either liquidation or redemption.

Further resolved, that this resolution shall remain in full force and effect unless and until revoked with HPD's written consent. A certified copy of the housing company's resolution opening the bank account and a photocopy of the housing company's signature card filed with the bank shall be submitted to HPD's Division of Housing Supervision.

[(c) *Administration of accounts.*

(1) *Deposits.* There shall be deposited into the reserve account monthly an amount equal to one-twelfth (1/12) of all the annual reserves

(2) *Disbursements.* No disbursements from the reserve account shall be made without prior written authorization by HPD.

(3) *Investments*] (c) *Investments.* [All funds not currently required shall be invested. Such investments shall be limited to] The capital repair and replacement reserve account shall be held in Federally insured interest-bearing bank accounts and/or interest bearing Federal obligations in a form approved in writing by HPD.

[(i)] (1) If interest-bearing bank accounts are utilized, passbooks and bank records shall be annotated as follows: Withdrawals from this account are limited to checks payable to (Housing Company), Capital Repair and Replacement Reserve [Fund] Account, (Name of bank in which reserve [fund] account is maintained).

[(ii)] (2) If Federal obligations are purchased, a custodial agreement for the bank in which the "Capital Repair and Replacement Reserve [Fund] Account" is maintained. This agreement shall require that all interest and proceeds from liquidation or redemption of securities be re-deposited to the "Capital Repair and Replacement Reserve [Fund] Account." A photocopy of the custodial agreement shall be submitted to HPD's Division of Housing Supervision.]

**§ 11. Clause (d) of subparagraph (x) of paragraph (4) of subdivision (b) of Section 3-09 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(d) *Commercial tenants and licensees.* Must carry a minimum of [\$500,000] \$1,000,000 for bodily injury and property damage, combined single limit. It may be that certain commercial

tenants and licensees, by the nature of their business, would have a higher bodily injury risk factor. In that event we reserve the right to require, on a case by case basis, a higher amount for bodily injury. The housing company and HPD shall be named as an Additional Insured.

**§ 12. Paragraph (5) of subdivision (h) of Section 3-10 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

- (5) The total fees charged by a professional or professionals retained by a Tenants Association pursuant to this subdivision shall be the fair and reasonable cost of the services rendered by such professional or professionals, but shall not exceed in total the amounts specified in the following schedule:

Size of Housing Development	Maximum Total Fee(s)
Under 500 units	<del>3,250</del> 5,000
500 or more units	<del>4,000</del> 6,000

**§ 13. Paragraph (6) of subdivision (i) of Section 3-14 of Chapter 3 of Title 28 of the Rules of the City of New York is amended to read as follows:**

(6) Mutual housing companies-special meeting. A board of directors of a mutual housing company [intending to dissolve and/or reconstitute] considering dissolution and/or reconstitution pursuant to §35 shall call a special meeting in conformance with the mutual housing company by-law requirements for the purpose of ascertaining shareholder interest in dissolution and/or reconstitution. The secretary of the board of directors shall submit to HPD a certified resolution stating that not less than a majority of the dwelling units represented at such special meeting approved an expenditure of funds in a specified amount not to exceed \$100,000 for the purpose of [preliminary exploration of dissolution and/or reconstitution] the preparation of a written feasibility study that will be distributed to each shareholder, unless the by-laws of the company mandate a greater affirmative vote. Each dwelling unit shall be entitled to one vote regardless of the number of shares allocated to such dwelling unit, the number of shareholders holding such shares, or the provisions regarding voting in such mutual housing company's certificate of incorporation or by-laws. Said resolution shall include language as follows:

"This resolution authorizes the board of directors to take steps necessary to [ascertain the desirability of dissolution and/or reconstitution] prepare a written feasibility study investigating dissolution and/or reconstitution that will be distributed to each shareholder. This resolution authorizes the expenditure of \$\_\_\_\_\_ for such [investigation] study, and notifies the shareholders that there are Private Housing Finance Law requirements for dissolution and/or reconstitution. This resolution also advises the shareholders that any additional expenditure of funds for such study will require a separate shareholder approval in accordance with the same voting procedures and cannot exceed \$100,000 at any one time, and that the New York State Department of Law requirements must be met prior to actual dissolution and/or reconstitution."

A certified copy of the resolution shall be submitted to HPD within seven (7) business days after such vote. Expenditure of funds authorized above shall require prior written approval of HPD[, if the dollar amount for any one retainer, agreement, or contract exceeds \$15,000 for mutual housing companies with fewer than five hundred (500) dwelling units and \$30,000 for those with five hundred (500) or greater].

The feasibility study prepared in accordance with such resolution shall investigate dissolution and/or reconstitution and shall include, but not be limited to:

(i) a physical condition survey of the mutual housing company development prepared by a licensed engineer or architect projecting such development's capital needs and the costs thereof for the next ten years from the date of such survey;

(ii) projected increases in real property taxes for the next five years due to the loss of any abatements of and/or exemptions from real property taxation that would result from dissolution and/or reconstitution;

(iii) advisory estimates from State and City taxing authorities of the real estate and real property transfer taxes that would result from dissolution and/or reconstitution; and

(iv) a market study prepared by an independent real estate professional containing projected sales prices for dwelling units if such mutual housing company were to dissolve and/or reconstitute.

**§ 14. Subparagraph (i) and the opening paragraph of subparagraph (ii) of paragraph (6-a) of subdivision (i) of Section 3-14 of Chapter 3 of Title 28 of the Rules of the City of New York are amended to read as follows:**

(i) Pursuant to the applicable notice period in the mutual housing company's by-laws, a special meeting shall be convened by the board of directors of the mutual housing company to authorize the (A) expenditure of \$ \_\_\_\_\_ for the preparation and submission to the office of the Attorney General of the State of New York of a private cooperative or condominium offering plan for the housing project, and (B) submission to HPD of the mutual housing company's notice of its intention to dissolve and/or reconstitute ("Notice of Intent"). Eligible voters for purposes of a quorum and for a vote on preparation and submission of such plan and such Notice of Intent shall be persons named on the stock certificate. Preparation and submission of such plan and such Notice of Intent requires approval of two-thirds (2/3) of the dwelling units in such mutual housing company. Each such dwelling unit shall be entitled to one vote regardless of the number of shares allocated to such dwelling unit, the number of shareholders holding such shares, or the provisions regarding voting in such mutual housing company's certificate of incorporation or by-laws. Subsequent to any such vote for the preparation and submission of the offering plan, the approval for any additional expenditures of funds in furtherance of dissolution and/or reconstitution shall only require the approval of a majority of the dwelling units represented at a special meeting convened by the board of directors of the mutual housing company.

(ii) The Notice of Intent shall be submitted to HPD no later than 365 days prior to the anticipated date of dissolution and/or reconstitution, provided however, that if the mutual housing company is transferring the property to a housing development fund company (organized pursuant to Article XI of the Private Housing Finance Law) a Notice of Intent may be submitted less than 365 days prior to the anticipated date of dissolution and/or reconstitution. It shall be accompanied by evidence of the appropriate shareholder vote and resolution authorizing the preparation and submission of the offering plan and such Notice of Intent in accordance with subparagraph (i) of this paragraph and shall contain the following information and supporting documents:

**§ 15. Paragraph (3) of subdivision (e) of Section 3-16 of the Rules of the City of New York is amended to read as follows:**

(3) collect all monthly rents, carrying charges and all other charges due from tenant/cooperators both residential and commercial, and from other users or concessionaires; including, but not limited to, licensees, and take such action with respect thereto as the owner may authorize;

**§ 16. Section 3-17 of Chapter 3 of Title 28 of the Rules of the City of New York is amended by adding a new subdivision (e) to read as follows:**

(e) Bedbug Disclosure Notification. In accordance with Administrative Code § 27-2018.1, all rental and mutual housing companies must provide notice to each tenant/cooperator signing a vacancy lease or occupancy agreement of the project's previous year's bedbug infestation history. Such notice must be in a form approved by the Department.

NEW YORK CITY LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE: Amendment of Rules Governing City-Aided Limited Profit Housing Companies (Mitchell Lama)**

**REFERENCE NUMBER: 2011 RG 012**

**RULEMAKING AGENCY: Department of Housing Preservation and Development**

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

06/30/11

Acting Corporation Counsel

Date

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1526

CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)

**RULE TITLE:** Amendment of Rules Governing City-Aided Limited Profit Housing Companies

**REFERENCE NUMBER:** HPD-1

**RULEMAKING AGENCY:** Housing Preservation Department

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the requirement for a cure period is mitigated by the extensive notice period, outreach, and guidance on compliance to the regulated individuals and communities.

/s/ Ruby B. Choi  
Mayor's Office of Operations

6/30/2011  
Date