



**Testimony of Habitat for Humanity - New York City
to the New York State Assembly Committee on Real Property Taxation and
Committee on Housing**

Hearing on: The tax exemption codified in section 421-a of the Real Property Tax Law (hereafter 421-a) and its correlation to affordable housing

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Introduction

Thank you for the opportunity to testify today. My name is Roland Lewis, and I am the executive director of Habitat for Humanity - New York City.

As an affordable housing developer and advocate, Habitat for Humanity - New York City strongly supports reforming New York City's 421-a Property Tax Exemption in order to encourage the development of more affordable housing across the city and stop unnecessarily subsidizing luxury housing.

Habitat-NYC was founded in 1984 as an independent affiliate of Habitat for Humanity International, and we build affordable housing in all five boroughs. Our homes are built with the "sweat equity" of our family partner homeowners, who work side-by-side with volunteers. Each year, an average of 10,000 New Yorkers from faith institutions, corporations, schools and civic groups come to build with us and learn more about how to help solve New York's affordable housing crisis.

In addition to building homes, Habitat-NYC is a leading advocate for affordable housing, with the goal of ensuring that every New Yorker has a decent, affordable home. We work to achieve this by creating a social movement to end the housing crisis plaguing New York City and by calling on elected officials to make affordable housing a priority. We were an instrumental voice in the fight

for Inclusionary Zoning last year, and this year we are positioning ourselves as an equally effective voice in efforts to reform the 421-a exemption. Habitat-NYC and the Pratt Center for Community Development released a report this year that highlights the extent to which the 421-a program has become a subsidy for luxury developments, while failing to produce a significant amount of affordable housing.

The 421-a Property Tax Exemption

The 421-a property tax exemption was created during the 1970s, at a time when New York was desperate for new development. Since then, the city's real estate market has completely transformed: far from abandonment, we are now facing a critical lack of affordable housing. The average sale price for a Manhattan apartment has topped \$1 million, and private development is taking hold in nearly every neighborhood in the city. At the same time, New York's working families are increasingly unable to afford housing:

- According to the most recent Housing and Vacancy Survey, more than 550,000 renter households – 28.8% of all tenants – are paying more than half their income in rent.
- Average tenant incomes were down 5.6%, but average rents were up 8.7%.
- More than 100,000 families are living in overcrowded conditions, and almost 8,000 families are living in homeless shelters.

But although times have changed, the 421-a exemption has stayed largely intact. It remains a relic from the “Bronx-is-burning” era, and it no longer meets the needs or priorities of New York’s housing market.

The 421-a program must be significantly reformed, for two reasons:

- First, the exemption is wasting city funds, giving up millions of dollars in unnecessary subsidies for developments that would have been built anyway.
- Second, the exemption is not producing a significant amount of affordable housing. Amid rising housing costs and widespread overcrowding, continuing to subsidize market-rate and luxury development could actually be making the city’s affordability crisis worse.

The current debate over 421-a is similar to the one that took place in the 1980s, when the city first decided that market-rate housing no longer needed to be subsidized in areas with plenty of new, high-end development. In that narrowly defined “exclusion zone,” the exemption was tied to a requirement that developers build or subsidize affordable housing. Now, as high-priced development and lack of affordable housing extends to nearly every corner of the city, the limited affordability requirements developed in the 1980s are insufficient.

The cost of the 421-a exemption

As real estate values have increased over the last several years, so has the cost of the 421-a exemption. But this increase is largely benefiting luxury developments, not affordable housing.

- In fiscal year 2006, the 421-a exemption cost the city more than \$400 million in lost tax revenue, according to the city's Independent Budget Office. Since 2002, the cost of the 421-a exemption has more than tripled.
- The exemptions are especially lucrative for developers in Manhattan, where housing stimulation is least needed: while Manhattan projects accounted for only 23% of all exemptions in 2005, they received over 78% of the value of the tax breaks. According to a new report by the city's comptroller, buildings in Lower Manhattan alone received \$24 million in subsidies in 2005.
- The Habitat-Pratt report found that in several buildings with 421-a exemptions, the subsidy *per unit* exceeded \$100,000 over the duration of the exemption. These subsidized units were not low-cost, affordable apartments; in most cases, they were multimillion-dollar condominiums in Lower Manhattan and downtown Brooklyn, and their developers received 421-a exemptions without building a single unit of affordable housing.

Affordable Housing Under the 421-a Program

Some affordable housing has been created through the 421-a program since the 1980s, when the city identified the "exclusion zone," located roughly between 96th and 14th streets in Manhattan. In this area, developers are not eligible to receive any 421-a property tax exemption as-of-right. If they include 20% affordable housing on-site, they are eligible for a tax exemption under 421-a, or they can choose to purchase "negotiable certificates" that are used to create affordable housing elsewhere in the city.

However, the amount of affordable housing that has been created is insufficient, especially considering the high cost of the exemption.

- The 421-a program has subsidized more than 100,000 housing units since its inception. However, according to a 2003 report by the Independent Budget Office, only about 8% of the subsidized units at that point were affordable to low- or moderate-income families. And this was prior to a significant increase in 421-a exemptions awarded in the past four years.
- The exclusion zone has not been updated since it was originally created in the 1980s, meaning that in many of today's hottest housing markets – including Tribeca, SoHo, Wall Street, Harlem, Brooklyn Heights, Park Slope, Long Island City and Astoria – any new developments can receive 421-a “as of right” without any requirement to build affordable housing.
- The “negotiable certificate” program, which allows developers to fund affordable housing build elsewhere in the city rather than include affordable units on-site, is clearly in need of significant reform. In some cases, developers contribute as little as 12 to 15 cents for affordable housing for every dollar of forgone taxes on luxury buildings.
- One example of the inefficiency of the certificate program is 240 Riverside Boulevard, part of the Trump Place development on the far West Side of Manhattan. In order to receive the 421-a tax exemption for this building, the developer purchased 174 “negotiable certificates” for approximately \$2 million. But over the 10-year exemption period, the city will give up more than \$12 million in lost tax revenue for this building alone. In essence, through the 421-a exemption, the city has contributed \$2 million to subsidize affordable housing and \$10 million to subsidize multimillion-dollar condominiums.
- In addition, most of the affordable units financed with “negotiable certificates” are built in low-income neighborhoods far from the luxury units receiving the 421-a subsidy.

Conclusions

It is the position of Habitat for Humanity – New York City that a major reform of the 421-a program is necessary. We thank Assemblyman Lopez for bringing this

issue up on the state level, as Mayor Bloomberg's task force continues to meet on the city level to discuss options for reform.

Under the 421-a exemption program, New York City is giving up \$400 million in forgone taxes this year alone — the same amount as the city's yearly capital commitment to affordable housing under the "New Housing Marketplace" plan. Meanwhile, many existing affordable housing programs are being cut, even as housing costs continue to rise far out of reach of many low- and moderate-income New Yorkers. Recent reports by the Community Service Society of New York and the Comptroller's office revealed that affordable units are rapidly being lost from the Mitchell-Lama and project-based Section 8 programs. And the federal government continues to cut funding for essential programs like public housing and Section 8 vouchers. The 421-a exemption has the potential to be turned into a powerful mechanism for producing affordable housing. With other sources of support for affordable housing disappearing, the city cannot afford to leave this resource untapped.

Whether it is by requiring developers to include affordable housing to qualify for the exemption, or by eliminating the program entirely and directing the recovered property tax revenues to fund affordable housing programs, we believe the 421-a exemption should be overhauled in whatever way will generate the most affordable housing.