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MHH Condo/Co-op Digest

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This newsletter explores the emerging legal topics and issues affecting the condominium and cooperative services industry. Thought-leading attorneys from Moritt Hock & Hamroff's Condominium and Cooperative Services Practice Group share their legal insight, experience and best practices on this rapidly evolving area of law.

As always, if you have any questions regarding the matters raised in this Digest, please feel free to contact Bill McCracken of our New York City office at wmccracken@moritthock.com, or your regular contact at the firm.

About The Group

Moritt Hock & Hamroff's Condominium and Cooperative Services Practice Group represents clients in all aspects of condominium and cooperative law.

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Good Cause Eviction Bill Passes But Excludes Co-ops and Condos

New York passed a [“good cause eviction” bill](#) as part of the 2024-25 state budget. This legislation, which will give certain renters the right to renew their leases and protection from “unreasonable” rent increases, has been viewed with some justification as a dramatic and fundamental reshaping of the landlord-tenant relationship in New York, comparable to the passage of the Housing Stability and Tenant Protection Act in 2019.

But not for co-ops and condos – the final bill excluded any “unit on or within a housing accommodation owned as a condominium or cooperative” from the good cause restrictions.

For those board members and advisors who have followed the good cause eviction debate over the last several years, the relief that co-ops and condos have been excluded from the final bill is tinged with a sense of irony, because the exclusionary language quoted above was never [included](#) in [any](#) of the [versions](#) of the [proposals](#) previously [introduced](#). This led to a cycle of observers warning that any good cause eviction bill would [wreak havoc on co-op and condo administration](#), followed by the bill’s sponsors [attempting to assure everyone](#) that the bill was not intended to affect co-ops and condos. But, again, only the

final version of the bill appearing in this year's budget actually made this exclusion clear.

Readers should be aware that although co-ops and condos are mostly exempt from the good cause eviction law's many substantive and procedural innovations (a broad overview of which is available [here](#)), any leases issued by any co-ops, shareholders, or unit owners must include a lengthy "[Good Cause Eviction Law Notice](#)" with any leases, and specifically advise any tenants in those notices which exemptions apply. This notice will need to be prepared and included with the package of other standard lease disclosures mandated by law.



City Issues Guidance for New Housing Development Tax Incentives

Good cause eviction legislation was a major victory for tenant advocates in New York. On the other side of the coin, developers can point to two new tax incentive programs in next year's budget that will hopefully help increase the supply of much needed additional housing in New York City.

On June 14, 2024, the Adams administration released [lengthy guidance for both programs](#).

The first new program is the "Affordable Neighborhoods for New Yorkers Program" (aka 485-x), which was enacted to replace the expired 421-a program. Broadly speaking, the program offers developers a 40-year exemption from most property taxes so long as they maintain at least 20% of new apartments at affordable rental rates, and the benefits vary depending on the project size and location. Among other things, participating developments must pay prevailing wages to construction workers on larger projects. Eligible projects begin construction between June 15, 2022 and June 15, 2034, and complete construction by June 15, 2038.

The release states that "HPD expects to officially launch applications for this incentive by the end of the year with the first approvals occurring in 2025."

(As for the original 421-a program, the City's release notes that the construction completion deadline for qualified projects has been extended from June 15, 2022 to June 15, 2031, so long as applicants seeking an extension submit a [letter of intent form](#) to HPD by no later than September 12, 2024.)

The second new program, "Affordable Housing from Commercial Conversion Tax Incentive Benefit" (aka 467-m), incentivizes conversions of commercial properties to residential use. In order to be eligible for the exemption, developers converting non-residential properties to residential with six or more apartment units must apply within one year of construction completion, begin construction between January 1, 2023 and December 31, 2031, and complete construction by December 31, 2029. The portion of affordable housing created under the program must remain affordable in perpetuity.

To encourage developers to move quickly, the tax exemption is substantially longer (35 years) for conversions beginning by 2026 than for by 2028 (30 years) or by 2032 (25 years).

Although it remains to be seen how effective these new programs will actually be in spurring new housing development, the Adams administration's release characterizes the new guidance as "an essential step in our mission to combat New York City's unprecedented affordable housing shortage."



New York City Council Tightens Parking Garage Rules by David Anes

In 2021, New York City passed [Local Law 126](#), which established a stringent inspection and reporting regime for parking garages. The law went into effect last year, but was not in place soon enough to save the parking garage located at 57 Ann Street which [collapsed in April 2023](#), killing one and injuring several others.

In the wake of that collapse and [news that dozens of other parking garages throughout the City had serious structural issues](#) that needed to be fixed, the City Council has passed a package of new legislation that, provided the Mayor does not veto it (the bills were delivered to him on May 23, 2024), will strengthen parking garage inspection requirements in several ways.

[Intro 0135-2024](#) will require the NYC Department of Buildings to conduct a load-bearing capacity study for parking garages, including by analyzing the effect of age, condition, size, frequency the garage is at or exceeds capacity, and exposure to environmental conditions, on the structural integrity of parking garages. [Intro 0170-2024](#) will double the civil penalties for DOB-enforced violations when issued to the owner of a parking structure (including minimum fines of \$20,000 for “immediately hazardous” violations), as well as expand DOB’s ability to issue daily or monthly fines for continuing violations. Finally, [Intro 0231-2024](#) will require that condition assessments of parking structures be conducted once every four years (down from the current six-year cycle originally established by Local Law 126), and will also require that follow-up assessments be conducted within two years after a parking structure is deemed “safe with repair or monitoring.”



Article Discussing Co-op and Condo Fines and Late Fees

On June 24, 2024, the New York Law Journal published an article written by William D. McCracken, titled “Fines, Late Fees and Limits on Co-op and Condo Board Authority.” A copy of the article is available [here](#). If you have any questions about your co-op or condo’s authority to issue fines or late fees, please get in touch with your contact at the firm.

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