

New York City Independent Budget Office

DATE: April 27, 2011
TO: Ronnie Lowenstein
FROM: Elizabeth Brown
RE: 421-a Fund

Authorization and Funding of the 421-a Fund

In December 2006 the New York City Council passed legislation that revised the 421-a tax exemption program and at the same time authorized the creation of a trust fund to develop affordable housing in the city's poorest neighborhoods.

More than three years later, in March 2010, the city signed an agreement with the Battery Park City Authority (BPCA) that will provide \$400 million for the fund, half from BPCA and half from the city's capital program. This agreement was negotiated by the Mayor, the City Comptroller, and the BPCA, whose board is appointed by the Governor, who must all agree on how surplus BPCA funds are spent. It was also agreed that BPCA would provide \$200 million to the general fund of New York State, \$200 million to the general fund of New York City, and \$261 million to New York City for Pay-As-You-Go capital.

BPCA is responsible for transferring its \$200 million 421-a Fund contribution to the New York City Housing Development Corporation (HDC), the city's housing finance agency, to be used for mortgage loans to develop affordable units. BPCA funds are scheduled in the agreement to be transferred to HDC annually through fiscal year 2017 following the completion of the BPCA's disbursements to the state and city general funds (the last of which is expected to take place in June). The city is responsible for providing the remaining \$200 million of the 421-a Fund through city capital dollars to the Department of Housing Preservation and Development for the construction and preservation of affordable housing.

Several Projects Already Funded

Given the lag between the authorization of the fund in 2006 and release of BPCA and city capital funds, HDC has already provided up-front payments of \$37 million to fund the subordinate mortgages of five affordable housing developments using its own corporate reserves, with reimbursement expected from both the BPCA 421-a Fund allocation and the city's capital allocation. These five projects, with 846 units, are expected to be the first set of 421-a Fund affordable units.

BPCA 421-a Funds

Of the \$200 million that BPCA will transfer to HDC, the agency expects to receive its first disbursement – of \$38 million— in June 2011, after the city Office of Management and Budget approves the uses of the funds. Because the funds are disbursed to HDC, they do not flow through the city's capital budget. However, OMB reviews the projects receiving funding. HDC 421-a Funds are used for mortgage loans –

mainly through the agency's LAMP program, which provides housing to individuals and families earning less than 60 percent of the Area Median Income.

City Capital 421-a Funds

The Preliminary 2012 Capital Commitment Plan scheduled all \$200 million in city funds that are planned for the 421-a Fund over the next four fiscal years, beginning in fiscal year 2011. HPD reports that it plans to use the funds both for the new construction and preservation of affordable housing. While the funds have not yet been committed for specific projects, HPD reports it has been earmarking projects for these funds over the past several years. OMB expects to receive submissions for "certificates to proceed" (or approval) for the projects beginning this month (April 2011). Funds are planned by fiscal year as follows:

- 2011: \$67 million
- 2012: \$19 million
- 2013: \$81 million
- 2014: \$33 million

421-a Funds and City Capital Cut

The city 421-a Funds were added to HPD's capital commitment plan at the same time that the citywide capital program was being reduced in an effort to control out-year debt service costs. Overall, 23 agencies, including HPD, saw their city capital funding reduced in the Mayor's Preliminary Budget. The average cut among agencies where city capital funding was reduced in fiscal years 2011 through 2014 is 10 percent.

For HPD, it is useful to look at the cut both with and without the city's \$200 million in funding for the 421-a Fund. When *including* the new 421-a Funds in the preliminary capital plan, HPD city funds are reduced by \$85 million from 2011 to 2014 (a 6 percent reduction). However, when the new 421-a funds are *excluded*, the cut increases to \$285 million (a 21 percent reduction), making it the third largest cut in absolute dollars, after the Departments of Transportation (\$401 million, a 14 percent reduction) and Education (\$300 million, a 6 percent reduction). In percentage terms, the HPD reduction (excluding the addition of the 421-a Funds) is also the third largest, behind the Department of Sanitation (\$249 million, a 22 percent reduction) and the Police Department (\$118 million, slightly over 21 percent reduction).

Looking at the programs in the HPD Capital Commitment Plan, the biggest cuts to city funds in the Preliminary Plan were to the Tenant Interim Lease Program (\$115 million cut from fiscal year 2011 to 2014). HPD is redesigning this program in an effort to leverage private investment in the projects. Although city funds for the Supportive Housing Program were cut by \$76 million, \$53 million of that is offset by an increase in the federal HOME funds for supportive housing. The increase in HOME funds, however, was budgeted before the federal government reduced HOME funding in its fiscal year 2011 budget by nearly 12 percent compared to fiscal year 2010 (cuts to HOME are also expected in the federal fiscal year 2012 budget). Therefore, these numbers may change. City funds in the preliminary plan for new construction programs and projects were reduced by \$68 million (14 percent).