

5763

2011-2012 Regular Sessions

I N S E N A T E

June 14, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the real property tax law, in relation to rent regulated housing accommodations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 26-504.1 of the administrative code of the city of  
2 New York, as amended by chapter 116 of the laws of 1997, is amended to  
3 read as follows:  
4 S 26-504.1 Exclusion of accommodations of high income renters. Upon  
5 the issuance of an order by the division, "housing accommodations" shall  
6 not include housing accommodations which: (1) are occupied by persons  
7 who have a total annual income in excess of one hundred seventy-five  
8 thousand dollars per annum for each of the two preceding calendar years,  
9 as defined in and subject to the limitations and process set forth in  
10 section 26-504.3 of this chapter; and (2) have a legal regulated rent of  
11 two thousand dollars or more per month. Provided, however, that this  
12 exclusion shall not apply to housing accommodations which became or  
13 become subject to this law (a) by virtue of receiving tax benefits  
14 pursuant to section four hundred twenty-one-a or four hundred eighty-  
15 nine of the real property tax law, except as otherwise provided in  
16 subparagraph (i) of paragraph (f) of subdivision two of section four  
17 hundred twenty-one-a of the real property tax law, or (b) by virtue of  
18 article seven-C of the multiple dwelling law. NOTWITHSTANDING THE FORE-  
19 GOING, HOUSING ACCOMMODATIONS WHICH WERE SUBJECT TO THIS CHAPTER OR  
20 CHAPTER THREE OF THIS TITLE IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE  
21 RECEIPT OF TAX BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF  
22 THE REAL PROPERTY TAX LAW OR WHICH ARE OR WOULD BE SUBJECT TO THIS CHAP-  
23 TER PURSUANT TO SUCH RULING SHALL BE DEEMED TO BE HOUSING ACCOMMODATIONS  
24 WHICH BECAME OR BECAME SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13151-01-1

1 TAX BENEFITS PURSUANT TO SUCH SECTION FOUR HUNDRED EIGHTY-NINE BUT ONLY  
2 FOR THE DURATION OF SUCH BENEFITS AND SHALL BE EXCLUDED FROM REGULATION  
3 THEREAFTER; PROVIDED, HOWEVER, THAT SUCH EXCLUSION SHALL BE APPLICABLE  
4 TO SUCH HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT  
5 OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270,  
6 ONLY WHERE THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL  
7 PAYMENT TO THE CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION  
8 SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX  
9 LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE. FOR PURPOSES OF  
10 THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE  
11 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D  
12 270" SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO  
13 THIS CHAPTER, THE NEW YORK CITY RENT AND REHABILITATION LAW, OR THE  
14 EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE  
15 RECEIPT OF BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE  
16 REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS  
17 RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS  
18 RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE  
19 DEREGULATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY  
20 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN  
21 DEREGULATED DESPITE SUCH RULING.

22 FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE  
23 SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE  
24 OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE  
25 DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO  
26 THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION  
27 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR  
28 PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED  
29 TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND  
30 THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAP-  
31 TER BY VIRTUE OF RECEIVING SUCH TAX BENEFITS.

32 S 2. Subdivision a of section 26-504.2 of the administrative code of  
33 the city of New York, as amended by chapter 82 of the laws of 2003, is  
34 amended to read as follows:

35 a. (1) "Housing accommodations" shall not include any housing accommo-  
36 dation which becomes vacant on or after April first, nineteen hundred  
37 ninety-seven and where at the time the tenant vacated such housing  
38 accommodation the legal regulated rent was two thousand dollars or more  
39 per month, or any housing accommodation which is or becomes vacant on or  
40 after the effective date of the rent regulation reform act of 1997 with  
41 a legal regulated rent of two thousand dollars or more per month. This  
42 exclusion shall apply regardless of whether the next tenant in occupancy  
43 or any subsequent tenant in occupancy actually is charged or pays less  
44 than two thousand dollars a month. Provided however, that this exclusion  
45 shall not apply to housing accommodations which became or become subject  
46 to this law (a) by virtue of receiving tax benefits pursuant to section  
47 four hundred twenty-one-a or four hundred eighty-nine of the real prop-  
48 erty tax law, except as otherwise provided in subparagraph (i) of para-  
49 graph (f) of subdivision two of section four hundred twenty-one-a of the  
50 real property tax law, or (b) by virtue of article seven-C of the multi-  
51 ple dwelling law. NOTWITHSTANDING THE FOREGOING, HOUSING ACCOMMODATIONS  
52 WHICH WERE SUBJECT TO THIS CHAPTER OR CHAPTER THREE OF THIS TITLE IMME-  
53 DIATELY PRIOR TO THE COMMENCEMENT OF THE RECEIPT OF TAX BENEFITS PURSU-  
54 ANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW OR  
55 WHICH ARE OR WOULD BE SUBJECT TO THIS CHAPTER PURSUANT TO SUCH RULING  
56 SHALL BE DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME

1 SUBJECT TO THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO  
2 SUCH SECTION FOUR HUNDRED EIGHTY-NINE BUT ONLY FOR THE DURATION OF SUCH  
3 BENEFITS AND SHALL BE EXCLUDED FROM RENT REGULATION THEREAFTER;  
4 PROVIDED, HOWEVER, THAT SUCH EXCLUSION SHALL BE APPLICABLE TO SUCH HOUS-  
5 ING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS  
6 IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, ONLY WHERE  
7 THE OWNER OF SUCH HOUSING ACCOMMODATIONS HAS MADE FULL PAYMENT TO THE  
8 CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF  
9 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-  
10 VISION EE OF SECTION 11-243 OF THIS CODE. FOR PURPOSES OF THIS SECTION,  
11 "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT OF  
12 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270"  
13 SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS  
14 CHAPTER, THE NEW YORK CITY RENT AND REHABILITATION LAW, OR THE EMERGENCY  
15 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF  
16 BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROP-  
17 ERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER  
18 SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING  
19 DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGU-  
20 LATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY  
21 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN  
22 DEREGULATED DESPITE SUCH RULING.

23 FOR HOUSING ACCOMMODATIONS IN BUILDINGS WHICH WERE, ARE OR BECOME THE  
24 SUBJECT OF CONVERSIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO-EEEE  
25 OF THE GENERAL BUSINESS LAW, SUCH HOUSING ACCOMMODATIONS SHALL NOT BE  
26 DEEMED TO BE HOUSING ACCOMMODATIONS WHICH BECAME OR BECOME SUBJECT TO  
27 THIS CHAPTER BY VIRTUE OF RECEIVING TAX BENEFITS PURSUANT TO SECTION  
28 FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND THE OWNER OR  
29 PROPRIETARY LESSEE OF SUCH HOUSING ACCOMMODATIONS SHALL NOT BE REQUIRED  
30 TO ACT IN ACCORDANCE WITH SUCH SECTIONS OF THE REAL PROPERTY TAX LAW AND  
31 THIS CODE TO QUALIFY AS HOUSING ACCOMMODATIONS NOT SUBJECT TO THIS CHAP-  
32 TER BY VIRTUE OF RECEIVING TAX BENEFITS.

33 (2) This section shall not apply, however, to or become effective with  
34 respect to housing accommodations which the commissioner determines or  
35 finds that the landlord or any person acting on his or her behalf, with  
36 intent to cause the tenant to vacate, engaged in any course of conduct  
37 (including, but not limited to, interruption or discontinuance of  
38 required services) which interfered with or disturbed or was intended to  
39 interfere with or disturb the comfort, repose, peace or quiet of the  
40 tenant in his or her use or occupancy of the housing accommodations and  
41 in connection with such course of conduct, any other general enforcement  
42 provision of this law shall also apply.

43 S 3. The administrative code of the city of New York is amended by  
44 adding a new section 26-504.4 to read as follows:

45 S 26-504.4 ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF  
46 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,  
47 L.P., 13 NY3D 270. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS  
48 SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-  
49 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMO-  
50 DATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS CHAPTER, THE NEW YORK  
51 CITY RENT AND REHABILITATION LAW, AND/OR THE EMERGENCY TENANT PROTECTION  
52 ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS PURSUANT  
53 TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW, EXCEPT  
54 AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID TAX BENEFITS  
55 HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE TAX BENEFIT  
56 PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION NOTICE OR (III)

1 THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRATIVE OR COURT  
2 ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED DESPITE  
3 SUCH RULING.

4 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY  
5 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW  
6 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION  
7 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT  
8 TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF THE  
9 STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13  
10 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

11 (1) THE LEGAL REGULATED RENT FOR A HOUSING ACCOMMODATION SUBJECT TO  
12 THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING  
13 ACCOMMODATION ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, OR PROVIDED  
14 FOR IN THE LEASE IN EFFECT ON SUCH DATE, WHICHEVER IS GREATER, PLUS ALL  
15 SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO  
16 INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDI-  
17 VIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES  
18 OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVI-  
19 SION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING  
20 ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED  
21 NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,  
22 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN  
23 REQUIRED OR OTHERWISE PROVIDED; IF THERE IS NO TENANT OR NO LEASE IN  
24 EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND FIVE, THEN THE FIRST RENT  
25 CHARGED AND PAID OR PROVIDED FOR IN THE FIRST LEASE IN EFFECT AFTER SAID  
26 DATE, WHICHEVER IS GREATER; OR (II) THE LEGAL REGULATED RENT AGREED TO  
27 BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION; OR (III)  
28 SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING  
29 EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE  
30 REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER  
31 OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

32 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
33 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND  
34 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED  
35 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN  
36 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

37 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER  
38 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN  
39 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE  
40 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A  
41 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-  
42 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE  
43 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH  
44 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL  
45 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

46 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED  
47 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF  
48 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE  
49 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED  
50 FOR IN SECTION 26-516 OF THIS CHAPTER.

51 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS  
52 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING  
53 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN  
54 WRITING TO THE LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH  
55 BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVI-  
56 SION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER

1 THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A  
2 WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND  
3 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE  
4 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,  
5 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY  
6 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-  
7 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THE TENANT VACAT-  
8 ING THE SUBJECT HOUSING ACCOMMODATION OR ENCOMPASSES SURRENDER OF  
9 POSSESSION OF THE HOUSING ACCOMMODATION BY THE TENANT, IT SHALL NOT BE  
10 BINDING UPON SUBSEQUENT TENANTS.

11 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION  
12 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF  
13 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN  
14 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

15 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-  
16 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN  
17 ROBERTS V. TISHMAN SPEYER PROPERTIES, 13 NY3D 270, AND WHERE THE OWNER  
18 MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN  
19 OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND  
20 SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, THE LEGAL REGULATED RENT  
21 FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET FORTH IN THE  
22 LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND NINE; IF THERE IS  
23 NO LEASE IN EFFECT ON SAID DATE, THEN THE AMOUNT SET FORTH IN THE FIRST  
24 LEASE IN EFFECT AFTER SAID DATE, PLUS ALL SUBSEQUENT ADJUSTMENTS AND  
25 INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACAN-  
26 CIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS,  
27 RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT  
28 WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY  
29 RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND  
30 THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION  
31 OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCU-  
32 MENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED.

33 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE EMERGENCY  
34 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR OR THE CIVIL PRACTICE LAW  
35 AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION  
36 C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT, PRIOR TO ITS VACANCY,  
37 WAS SUBJECT TO REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS  
38 OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE  
39 DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER  
40 PROPERTIES, L.P., 13 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

41 (1) WHERE A HOUSING ACCOMMODATION PRIOR TO ITS VACANCY WAS SUBJECT TO  
42 REGULATION UNDER CHAPTER THREE OF THIS TITLE AND WHICH IS OR WOULD BE  
43 SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF THE DECISION OF  
44 THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES,  
45 L.P., 13 NY3D 270, THE INITIAL LEGAL REGULATED RENT SHALL BE (I) DETER-  
46 MINED IN ACCORDANCE WITH THE METHODOLOGY USED FOR FAIR MARKET RENT  
47 APPEALS, PROVIDED, HOWEVER, THAT THE RENTS IN EFFECT FOR COMPARABLE  
48 APARTMENTS, WHETHER OR NOT REGULATED, ON THE DATE FOUR YEARS PRIOR TO  
49 THE DATE OF THE COMMENCEMENT OF THE FIRST LEASE EXECUTED AFTER THE  
50 VACANCY BY THE FORMER RENT CONTROLLED TENANT OF SUCH HOUSING ACCOMMO-  
51 DATION, BUT IN NO EVENT PRIOR TO OCTOBER TWENTY-SECOND, TWO THOUSAND  
52 FIVE, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPARABILITY  
53 COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT APPEALS, PLUS  
54 ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT LIMITED TO  
55 INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDI-  
56 VIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES

1 OR OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION  
2 OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMO-  
3 DATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTAND-  
4 ING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION,  
5 APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR  
6 OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL REGULATED RENT AGREED TO  
7 BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION, OR (III)  
8 SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A WRITING  
9 EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE NOTICE  
10 REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY THE OWNER  
11 OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

12 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
13 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND  
14 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED  
15 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN  
16 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

17 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER  
18 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN  
19 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE  
20 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A  
21 RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISH-  
22 MAN SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE  
23 LEGAL REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH  
24 THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL  
25 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

26 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED  
27 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF  
28 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE  
29 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED  
30 FOR IN SECTION 26-516 OF THIS CHAPTER.

31 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS  
32 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING  
33 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN  
34 WRITING TO THE LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH  
35 BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVI-  
36 SION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER  
37 THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A  
38 WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND  
39 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE  
40 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,  
41 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY  
42 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-  
43 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THAT THE TENANT  
44 VACATE THE SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE  
45 HOUSING ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

46 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION  
47 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF  
48 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN  
49 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

50 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-  
51 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN  
52 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE  
53 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION  
54 SEVENTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX  
55 LAW AND SUBDIVISION EE OF SECTION 11-243 OF THIS CODE, THE INITIAL LEGAL  
56 REGULATED RENT FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET

1 FORTH IN THE LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO THOUSAND  
2 NINE; IF THERE IS NO LEASE IN EFFECT ON SAID DATE, THE FIRST LEASE IN  
3 EFFECT THEREAFTER; PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES,  
4 INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR  
5 CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES  
6 BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED  
7 BY AN ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER  
8 REGULATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE  
9 BEEN PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM,  
10 RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT  
11 WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED.

12 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND  
13 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE  
14 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF  
15 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE  
16 CITY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVENTEEN OF  
17 SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW AND SUBDI-  
18 VISION EE OF SECTION 11-243 OF THIS CODE. AN OWNER WHO PROVIDES A NOTICE  
19 PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT TO THE CITY IN  
20 ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THIS CODE BY JUNE THIRTI-  
21 ETH, TWO THOUSAND TWELVE SHALL BE SUBJECT TO THE OVERCHARGE PENALTIES,  
22 INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED FOR IN SECTION 26-516 OF  
23 THIS CHAPTER. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN  
24 SUBDIVISION A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF  
25 SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT  
26 OR FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO  
27 PAY, THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

28 S 4. Section 4 of chapter 576 of the laws of 1974, constituting the  
29 emergency tenant protection act of nineteen seventy-four, is amended by  
30 adding a new section 5-b to read as follows:

31 S 5-B. ENFORCEMENT AND PROCEDURES FOR IMPLEMENTING THE DECISION OF THE  
32 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D  
33 270. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO  
34 THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER  
35 PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING ACCOMMODATIONS IN  
36 BUILDINGS THAT WERE SUBJECT TO THE NEW YORK CITY RENT AND REHABILITATION  
37 LAW, NEW YORK CITY RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE  
38 OR THIS ACT PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO SECTION 489 OF  
39 THE REAL PROPERTY TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS  
40 RENTED AFTER SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS  
41 RENTING DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE  
42 DEREGULATION NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY  
43 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN  
44 DEREGULATED DESPITE SUCH RULING.

45 A. NOTWITHSTANDING ANY OTHER PROVISION OF THE RENT STABILIZATION LAW  
46 OF NINETEEN HUNDRED SIXTY-NINE, THIS ACT OR THE CIVIL PRACTICE LAW AND  
47 RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF SUBDIVISION C OF  
48 THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO  
49 REGULATION UNDER THIS ACT AS A RESULT OF THE DECISION OF THE COURT OF  
50 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270,  
51 SHALL BE SUBJECT TO THE FOLLOWING:

52 (1) THE LEGAL REGULATED RENT FOR A HOUSING ACCOMMODATION SUBJECT TO  
53 THIS SECTION SHALL BE (I) THE RENT CHARGED AND PAID FOR SUCH HOUSING  
54 ACCOMMODATION ON OCTOBER 22, 2005, OR PROVIDED FOR IN THE LEASE IN  
55 EFFECT ON SUCH DATE, WHICHEVER IS GREATER, PLUS ALL SUBSEQUENT ADJUST-  
56 MENTS AND INCREASES, INCLUDING BUT NOT LIMITED TO INCREASES ATTRIBUTABLE

1 TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVE-  
2 MENTS, RENT GUIDELINES BOARD ORDERS, SURCHARGES OR ANY OTHER INCREASES  
3 THAT WERE NOT PRECLUDED BY AN ORDER OF THE DIVISION OF HOUSING AND  
4 COMMUNITY RENEWAL AS TO OTHER REGULATED HOUSING ACCOMMODATIONS IN THE  
5 BUILDING AND THAT WOULD HAVE BEEN PERMITTED NOTWITHSTANDING THE ABSENCE  
6 OR OMISSION OF ANY FORM, RIDER, NOTICE, REGISTRATION, APPLICATION OR ANY  
7 OTHER DOCUMENT THAT WOULD HAVE BEEN REQUIRED OR OTHERWISE PROVIDED; IF  
8 THERE IS NO TENANT OR NO LEASE IN EFFECT ON OCTOBER TWENTY-SECOND, TWO  
9 THOUSAND FIVE, THEN THE FIRST RENT CHARGED AND PAID OR PROVIDED FOR IN  
10 THE FIRST LEASE IN EFFECT AFTER SAID DATE, WHICHEVER IS GREATER; OR (II)  
11 THE LEGAL REGULATED RENT AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH  
12 FIVE OF THIS SUBDIVISION; OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE  
13 OWNER AND TENANT IN A WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY  
14 THE TENANT OF THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION  
15 AND PAYMENT BY THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH  
16 AGREEMENT.

17 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
18 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND  
19 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED  
20 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN  
21 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

22 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER  
23 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN  
24 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE  
25 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS CHAPTER AS A  
26 RESULT OF THE DECISION OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN  
27 SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE LEGAL  
28 REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE  
29 PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL  
30 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

31 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED  
32 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF  
33 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE  
34 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED  
35 FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW  
36 YORK.

37 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS  
38 OF THE MAILING OF SUCH NOTICE TO THE TENANT. WHERE A TENANT OF A HOUSING  
39 ACCOMMODATION SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN  
40 WRITING TO THE LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH  
41 BY THE OWNER IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVI-  
42 SION, AND THE OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER  
43 THE NOTICE REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A  
44 WRITTEN AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND  
45 REFUND AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE  
46 PARTIES, THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT,  
47 IF ANY, SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY  
48 SUBSEQUENT TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREE-  
49 MENT ENTERED INTO PURSUANT TO THIS PARAGRAPH REQUIRES THE TENANT VACAT-  
50 ING THE SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE  
51 HOUSING ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

52 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION  
53 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF  
54 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN  
55 FOUR YEARS BEFORE THE COMPLAINT IS FILED.



1 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-  
2 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN  
3 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE  
4 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17  
5 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION 11-243 OF THE  
6 ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE LEGAL REGULATED RENT  
7 FOR SUCH HOUSING ACCOMMODATION SHALL BE THE AMOUNT SET FORTH IN THE  
8 LEASE IN EFFECT ON OCTOBER 22, 2009; IF THERE IS NO LEASE IN EFFECT ON  
9 SAID DATE, THEN THE AMOUNT SET FORTH IN THE FIRST LEASE IN EFFECT AFTER  
10 SAID DATE; PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT  
11 NOT LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL  
12 IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD  
13 ORDERS, SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN  
14 ORDER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGU-  
15 LATED HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN  
16 PERMITTED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER,  
17 NOTICE, REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE  
18 BEEN REQUIRED OR OTHERWISE PROVIDED.

19 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE NEW YORK CITY  
20 RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, OR THE CIVIL  
21 PRACTICE LAW AND RULES TO THE CONTRARY, AND SUBJECT TO THE PROVISIONS OF  
22 SUBDIVISION C OF THIS SECTION, ANY HOUSING ACCOMMODATION THAT IS OR  
23 WOULD BE SUBJECT TO REGULATION UNDER THIS ACT AS A RESULT OF THE DECI-  
24 SION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPER-  
25 TIES, L.P., 13 NY3D 270, SHALL BE SUBJECT TO THE FOLLOWING:

26 (1) WHERE A HOUSING ACCOMMODATION IS OR WOULD BE SUBJECT TO REGULATION  
27 UNDER THIS ACT AS A RESULT OF A DECISION OF THE STATE COURT OF APPEALS  
28 IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, THE INITIAL  
29 LEGAL REGULATED RENT SHALL BE (I) DETERMINED IN ACCORDANCE WITH THE  
30 METHODOLOGY USED FOR FAIR MARKET RENT APPEALS, PROVIDED, HOWEVER, THAT  
31 THE RENTS IN EFFECT FOR COMPARABLE APARTMENTS, WHETHER OR NOT REGULATED,  
32 ON THE DATE FOUR YEARS PRIOR TO THE DATE OF THE COMMENCEMENT OF THE  
33 FIRST LEASE EXECUTED AFTER THE VACANCY BY THE FORMER RENT CONTROLLED  
34 TENANT OF SUCH HOUSING ACCOMMODATION BUT IN NO EVENT PRIOR TO OCTOBER  
35 22, 2005, SHALL BE UTILIZED FOR THE PURPOSE OF DETERMINING THE COMPAR-  
36 ABILITY COMPONENT USED FOR THE DETERMINATION OF FAIR MARKET RENT  
37 APPEALS, PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES INCLUDING BUT NOT  
38 LIMITED TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVE-  
39 MENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS,  
40 SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF  
41 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED  
42 HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMIT-  
43 TED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,  
44 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN  
45 REQUIRED OR OTHERWISE PROVIDED, OR (II) THE INITIAL LEGAL REGULATED RENT  
46 AGREED TO BY THE TENANT PURSUANT TO PARAGRAPH FIVE OF THIS SUBDIVISION  
47 OR (III) SUCH OTHER AMOUNT AS AGREED TO BY THE OWNER AND TENANT IN A  
48 WRITING EXECUTED BY THE PARTIES AFTER RECEIPT BY THE TENANT OF THE  
49 NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION AND PAYMENT BY  
50 THE OWNER OF THE REFUND AMOUNT, IF ANY, PROVIDED IN SUCH AGREEMENT.

51 (2) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
52 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL OFFER TO REFUND  
53 TO THE TENANT RESIDING IN SUCH HOUSING ACCOMMODATION ALL RENT COLLECTED  
54 FROM SUCH TENANT IN EXCESS OF THE LEGAL REGULATED RENT CALCULATED IN  
55 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

1 (3) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AN OWNER  
2 OF A HOUSING ACCOMMODATION SUBJECT TO THIS SECTION SHALL PROVIDE WRITTEN  
3 NOTICE TO THE CURRENT TENANT OF THE HOUSING ACCOMMODATION OF: (I) THE  
4 FACT THAT THE HOUSING ACCOMMODATION IS SUBJECT TO THIS ACT AS A RESULT  
5 OF THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN  
6 SPEYER PROPERTIES, L.P., 13 NY3D 270; (II) A CALCULATION OF THE LEGAL  
7 REGULATED RENT FOR THE HOUSING ACCOMMODATION IN ACCORDANCE WITH THE  
8 PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION; AND (III) THE TOTAL  
9 AMOUNT TO BE REFUNDED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION.

10 (4) AN OWNER WHO MAKES A GOOD FAITH CALCULATION OF THE LEGAL REGULATED  
11 RENT AND MAKES A REFUND OFFER IN ACCORDANCE WITH THE REQUIREMENTS OF  
12 PARAGRAPH TWO OF THIS SUBDIVISION SHALL NOT BE SUBJECT TO ANY OF THE  
13 OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES, PROVIDED  
14 FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW  
15 YORK.

16 (5) THE TENANT SHALL BE OBLIGATED TO RESPOND WITHIN THIRTY-FIVE DAYS  
17 OF THE MAILING OF SUCH NOTICE. WHERE A TENANT OF A HOUSING ACCOMMODATION  
18 SUBJECT TO THE PROVISIONS OF THIS SECTION CONSENTS IN WRITING TO THE  
19 LEGAL REGULATED RENT AND REFUND AMOUNT, IF ANY, SET FORTH BY THE OWNER  
20 IN THE NOTICE REQUIRED BY PARAGRAPH THREE OF THIS SUBDIVISION, AND THE  
21 OWNER MAKES THE REQUIRED REFUND TO THE TENANT, OR AFTER THE NOTICE  
22 REQUIRED BY SUCH PARAGRAPH THE OWNER AND TENANT ENTER INTO A WRITTEN  
23 AGREEMENT PROVIDING FOR A DIFFERENT LEGAL REGULATED RENT AND REFUND  
24 AMOUNT AND THE OWNER MAKES THE REFUND, IF ANY, AGREED TO BY THE PARTIES,  
25 THEN NEITHER SUCH LEGAL REGULATED RENT NOR SUCH REFUND AMOUNT, IF ANY,  
26 SHALL THEREAFTER BE SUBJECT TO CHALLENGE BY THE TENANT OR ANY SUBSEQUENT  
27 TENANT OF THE HOUSING ACCOMMODATION. HOWEVER, IF THE AGREEMENT ENTERED  
28 INTO PURSUANT TO THIS PARAGRAPH REQUIRES THAT THE TENANT VACATE THE  
29 SUBJECT HOUSING ACCOMMODATION OR SURRENDER POSSESSION OF THE HOUSING  
30 ACCOMMODATION, IT SHALL NOT BE BINDING UPON SUBSEQUENT TENANTS.

31 (6) IN NO EVENT SHALL A TENANT WHO FILES A COMPLAINT WITH THE DIVISION  
32 OF HOUSING AND COMMUNITY RENEWAL SEEKING RELIEF UNDER THE PROVISIONS OF  
33 THIS SECTION BE ENTITLED TO A REFUND FOR RENT PAYMENTS MADE MORE THAN  
34 FOUR YEARS BEFORE THE COMPLAINT IS FILED.

35 (7) FOR ANY HOUSING ACCOMMODATION THAT IS OR WOULD BE SUBJECT TO REGU-  
36 LATION AS A RESULT OF THE DECISION OF THE STATE COURT OF APPEALS IN  
37 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270, AND WHERE THE  
38 OWNER MAKES PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17  
39 OF SECTION 489 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF  
40 SECTION 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE  
41 INITIAL LEGAL REGULATED RENT FOR SUCH HOUSING ACCOMMODATION SHALL BE THE  
42 AMOUNT SET FORTH IN THE LEASE IN EFFECT ON OCTOBER 22, 2009; IF THERE IS  
43 NO LEASE IN EFFECT ON SAID DATE, THE FIRST LEASE IN EFFECT THEREAFTER;  
44 PLUS ALL SUBSEQUENT ADJUSTMENTS AND INCREASES, INCLUDING BUT NOT LIMITED  
45 TO INCREASES ATTRIBUTABLE TO VACANCIES, MAJOR CAPITAL IMPROVEMENTS,  
46 INDIVIDUAL APARTMENT IMPROVEMENTS, RENT GUIDELINES BOARD ORDERS,  
47 SURCHARGES OR ANY OTHER INCREASES THAT WERE NOT PRECLUDED BY AN ORDER OF  
48 THE DIVISION OF HOUSING AND COMMUNITY RENEWAL AS TO OTHER REGULATED  
49 HOUSING ACCOMMODATIONS IN THE BUILDING AND THAT WOULD HAVE BEEN PERMIT-  
50 TED NOTWITHSTANDING THE ABSENCE OR OMISSION OF ANY FORM, RIDER, NOTICE,  
51 REGISTRATION, APPLICATION OR ANY OTHER DOCUMENT THAT WOULD HAVE BEEN  
52 REQUIRED OR OTHERWISE PROVIDED.

53 C. AS AN ALTERNATIVE TO THE PROCEDURES SET FORTH IN SUBDIVISIONS A AND  
54 B OF THIS SECTION, AN OWNER MAY, WITHIN NINETY DAYS OF THE EFFECTIVE  
55 DATE OF THIS SECTION, PROVIDE WRITTEN NOTICE TO THE CURRENT TENANT OF  
56 THE HOUSING ACCOMMODATION THAT THE OWNER INTENDS TO MAKE PAYMENT TO THE

1 CITY OF NEW YORK IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 17 OF  
2 SECTION 489 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE OF SECTION  
3 11-243 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. AN OWNER WHO  
4 PROVIDES A NOTICE PURSUANT TO THIS SECTION BUT WHO DOES NOT MAKE PAYMENT  
5 TO SUCH CITY IN ACCORDANCE WITH THE REAL PROPERTY TAX LAW AND THE ADMIN-  
6 ISTRATIVE CODE OF THE CITY OF NEW YORK BY JUNE 30, 2012 SHALL BE SUBJECT  
7 TO THE OVERCHARGE PENALTIES, INCLUDING INTEREST AND TREBLE DAMAGES,  
8 PROVIDED FOR IN SECTION 26-516 OF THE ADMINISTRATIVE CODE OF THE CITY OF  
9 NEW YORK. DURING THE PERIODS IN WHICH THE PROCEDURES SET FORTH IN SUBDI-  
10 VISIONS A, B OR C OF THIS SECTION ARE BEING UTILIZED, THE OWNER OF SUCH  
11 HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO CHARGE, AND A TENANT OR  
12 FORMER TENANT OF SUCH A HOUSING ACCOMMODATION SHALL BE OBLIGATED TO PAY,  
13 THE AMOUNT SET FORTH IN THE LEASE THEN IN EFFECT.

14 S 5. Subparagraph (i) of paragraph 14 of subdivision a of section 5 of  
15 section 4 of chapter 576 of the laws of 1974, constituting the emergency  
16 tenant protection act of nineteen seventy-four, as added by chapter 253  
17 of the laws of 1993, is amended to read as follows:

18 (i) housing accommodations owned as a cooperative or condominium unit  
19 which are or become vacant on or after the effective date of this para-  
20 graph REGARDLESS OF WHETHER SUCH HOUSING ACCOMMODATIONS WERE, ARE OR  
21 WILL BE IN A BUILDING WHICH RECEIVED OR RECEIVES TAX BENEFITS PURSUANT  
22 TO SECTION 489 OF THE REAL PROPERTY TAX LAW AND REGARDLESS OF THE RULING  
23 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,  
24 13 NY3D 270, except that this subparagraph shall not apply to units  
25 occupied by non-purchasing tenants under section[ three hundred fifty-  
26 two-eee] 352-EEE of the general business law until the occurrence of a  
27 vacancy.

28 S 6. Section 489 of the real property tax law is amended by adding a  
29 new subdivision 17 to read as follows:

30 17. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-  
31 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS  
32 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-  
33 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE  
34 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D  
35 270, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO  
36 MAKE TO THE CITY OF NEW YORK, AND THE CITY OF NEW YORK SHALL BE OBLIGED  
37 TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS RECEIVED BY  
38 ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR  
39 DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMINISTERING THIS  
40 CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR REAL PROPERTY TAX  
41 ASSESSMENT PRIOR TO OCTOBER TWENTY-SECOND, TWO THOUSAND NINE WHICH  
42 REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO RENT REGULATIONS.  
43 SUCH PAYMENT SHALL BE MADE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND  
44 TWELVE. SUCH PAYMENT SHALL ENTITLE SUCH OWNER TO THE BENEFIT OF THE  
45 EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND 26-504.2 OF THE ADMINIS-  
46 TRATIVE CODE OF THE CITY OF NEW YORK WHERE THE HOUSING ACCOMMODATIONS  
47 WERE SUBJECT TO RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX  
48 BENEFITS PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO  
49 RENT REGULATION DUE TO RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING  
50 OF THE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P.,  
51 13 NY3D, 270 UPON THE EXPIRATION OF SAID BENEFITS. PAYMENT PURSUANT TO  
52 THIS SUBDIVISION SHALL BE PAID INTO THE GENERAL FUND OF THE CITY OF NEW  
53 YORK. THE CITY OF NEW YORK SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE  
54 WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT SETTING FORTH THE AMOUNTS  
55 DUE FOR PAYMENT AND WAIVER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO  
56 RESPOND TIMELY TO SUCH REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S

1 OBLIGATION TO MAKE PAYMENT FOLLOWING THE DELIVERY OF NOTICE OF SUCH  
2 INTENT TO THE TENANT. FOR PURPOSES OF THIS SECTION, "HOUSING ACCOMMO-  
3 DATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN ROBERTS  
4 V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN HOUSING  
5 ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THE NEW YORK CITY RENT  
6 AND REHABILITATION LAW, THE NEW YORK CITY RENT STABILIZATION LAW OF  
7 NINETEEN HUNDRED SIXTY-NINE OR THE EMERGENCY TENANT PROTECTION ACT OF  
8 NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS PURSUANT TO THIS  
9 SECTION, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID  
10 TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE  
11 TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION  
12 NOTICE OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRA-  
13 TIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGU-  
14 LATED DESPITE SUCH RULING.

15 S 7. Section 11-243 of the administrative code of the city of New York  
16 is amended by adding a new subdivision ee to read as follows:

17 EE. WHERE HOUSING ACCOMMODATIONS WERE SUBJECT TO RENT REGULATION IMME-  
18 DIATELY PRIOR TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS  
19 PURSUANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGU-  
20 LATION DUE TO THE RECEIPT OF SUCH BENEFITS PURSUANT TO THE RULING OF THE  
21 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D  
22 270, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE AUTHORIZED TO  
23 MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE OR HAVE BEEN  
24 OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH BENEFITS  
25 RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY  
26 ORDER OR DETERMINATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF  
27 HOUSING PRESERVATION AND DEVELOPMENT PRIOR TO OCTOBER TWENTY-SECOND, TWO  
28 THOUSAND NINE WHICH REQUIRED THE HOUSING ACCOMMODATION TO BE SUBJECT TO  
29 SUCH RENT REGULATIONS. SUCH PAYMENT SHALL BE MADE NO LATER THAN JUNE  
30 THIRTIETH, TWO THOUSAND TWELVE. SUCH PAYMENT SHALL ENTITLE SUCH OWNER TO  
31 THE BENEFIT OF THE EXCLUSIONS SET FORTH IN SECTIONS 26-504.1 AND  
32 26-504.2 OF THIS CODE WHERE THE HOUSING ACCOMMODATIONS WERE SUBJECT TO  
33 RENT REGULATION IMMEDIATELY PRIOR TO THE RECEIPT OF TAX BENEFITS PURSU-  
34 ANT TO THIS SECTION OR WHICH ARE OR WOULD BE SUBJECT TO RENT REGULATION  
35 DUE TO RECEIPT OF TAX BENEFITS PURSUANT TO THE RULING OF THE COURT OF  
36 APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., NY3D 270 UPON THE  
37 EXPIRATION OF SAID BENEFITS. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL  
38 BE PAID INTO THE GENERAL FUND OF THE CITY. THE CITY SHALL, UPON REQUEST  
39 OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A STATEMENT  
40 SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE BASIS  
41 THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST SHALL TOLL  
42 THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOWING THE  
43 DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT. FOR PURPOSES OF THIS  
44 SECTION, "HOUSING ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE  
45 COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D  
46 270" SHALL MEAN HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO  
47 THE NEW YORK CITY RENT AND REHABILITATION LAW, THE NEW YORK CITY RENT  
48 STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE OR THE EMERGENCY TENANT  
49 PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF BENEFITS  
50 PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX  
51 LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER SAID TAX  
52 BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING DURING THE TAX  
53 BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGULATION NOTICE,  
54 OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY ADMINISTRATIVE OR  
55 COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN DEREGULATED  
56 DESPITE SUCH RULING.

1 S 8. Subdivision c of section 26-504 of the administrative code of the  
2 city of New York, as amended by chapter 289 of the laws of 1985, is  
3 amended to read as follows:

4 c. [Dwelling] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION SEVENTEEN  
5 AND SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL  
6 PROPERTY TAX LAW AND SUBDIVISION EE AND SUBDIVISION FF OF SECTION 11-243  
7 OF THIS CODE, DWELLING units in a building or structure receiving the  
8 benefits of section 11-243 or section 11-244 of [the] THIS code or arti-  
9 cle eighteen of the private housing finance law, not owned as a cooper-  
10 ative or as a condominium, except as provided in section three hundred  
11 fifty-two-eeee of the general business law and not subject to chapter  
12 three of this title. [Upon] EXCEPT AS OTHERWISE PROVIDED BY SUBDIVISION  
13 SEVENTEEN AND SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED EIGHTY-NINE  
14 OF THE REAL PROPERTY TAX LAW AND SUBDIVISION EE AND SUBDIVISION FF OF  
15 SECTION 11-243 OF THIS CODE, the expiration or termination for any  
16 reason of the benefits of section 11-243 or section 11-244 of [the] THIS  
17 code or article eighteen of the private housing finance law any such  
18 dwelling unit shall be subject to this chapter until the occurrence of  
19 the first vacancy of such unit after such benefits are no longer being  
20 received or if each lease and renewal thereof for such unit for the  
21 tenant in residence at the time of the expiration of the tax benefit  
22 period has included a notice in at least twelve point type informing  
23 such tenant that the unit shall become subject to deregulation upon the  
24 expiration of such tax benefit period and states the approximate date on  
25 which such tax benefit period is scheduled to expire, such dwelling unit  
26 shall be deregulated as of the end of the tax benefit period; provided,  
27 however, that if such dwelling unit would have been subject to this  
28 chapter or the emergency tenant protection act of nineteen seventy-four  
29 in the absence of this subdivision, such dwelling unit shall, upon the  
30 expiration of such benefits, continue to be subject to this chapter or  
31 the emergency tenant protection act of nineteen seventy-four to the same  
32 extent and in the same manner as if this subdivision had never applied  
33 thereto. NOTWITHSTANDING THE FOREGOING, WHERE THE NOTIFICATION REQUIRED  
34 BY THIS SUBDIVISION WAS NOT PROVIDED FOR ANY HOUSING ACCOMMODATION WHICH  
35 IS OR WOULD BE SUBJECT TO REGULATION UNDER THIS CHAPTER AS A RESULT OF  
36 THE DECISION OF THE STATE COURT OF APPEALS IN ROBERTS V. TISHMAN SPEYER  
37 PROPERTIES, L.P., 13 NY3D 270, THE FAILURE TO PROVIDE SUCH NOTIFICATION  
38 SHALL NOT PRECLUDE THE DEREGULATION OF SUCH HOUSING ACCOMMODATION UPON  
39 THE EXPIRATION OF THE LEASE OR RENEWAL LEASE IMMEDIATELY SUBSEQUENT TO  
40 THE EXPIRATION OF SUCH TAX BENEFITS, PROVIDED THAT THE OWNER OF SUCH  
41 HOUSING ACCOMMODATION SHALL COMPLY WITH SUCH NOTICE REQUIREMENT FOR EACH  
42 LEASE OR RENEWAL LEASE OFFERED FOR SUCH HOUSING ACCOMMODATION DURING THE  
43 PERIOD BETWEEN NINETY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF  
44 THE LAWS OF TWO THOUSAND ELEVEN WHICH AMENDED THIS SUBDIVISION AND THE  
45 EXPIRATION OF SUCH TAX BENEFITS. FOR PURPOSES OF THIS SECTION, "HOUSING  
46 ACCOMMODATIONS SUBJECT TO THE RULING OF THE STATE COURT OF APPEALS IN  
47 ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D 270" SHALL MEAN  
48 HOUSING ACCOMMODATIONS IN BUILDINGS THAT WERE SUBJECT TO THIS CHAPTER,  
49 THE NEW YORK CITY RENT AND REHABILITATION LAW, AND/OR THE EMERGENCY  
50 TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR PRIOR TO THE RECEIPT OF  
51 BENEFITS PURSUANT TO SECTION FOUR HUNDRED EIGHTY-NINE OF THE REAL PROP-  
52 erty TAX LAW, EXCEPT AS TO (I) THOSE HOUSING ACCOMMODATIONS RENTED AFTER  
53 SAID TAX BENEFITS HAD EXPIRED, (II) HOUSING ACCOMMODATIONS RENTING  
54 DURING THE TAX BENEFIT PERIOD WHERE EACH LEASE HAD THE REQUISITE DEREGU-  
55 LATION NOTICE, OR (III) THOSE HOUSING ACCOMMODATIONS DEREGULATED BY

1 ADMINISTRATIVE OR COURT ORDER, WHICH HOUSING ACCOMMODATIONS SHALL REMAIN  
2 DEREGULATED DESPITE SUCH RULING.

3 S 9. Section 489 of the real property tax law is amended by adding a  
4 new subdivision 18 to read as follows:

5 18. WHERE HOUSING ACCOMMODATIONS ARE LOCATED IN BUILDINGS WHICH WERE  
6 COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND WHICH  
7 WERE PREVIOUSLY REGULATED PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUSING  
8 FINANCE LAW AND SUCH HOUSING ACCOMMODATIONS BECAME SUBJECT TO RENT  
9 STABILIZATION SUBSEQUENT TO THE PRIVATE HOUSING FINANCE LAW DISSOLUTION  
10 DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT  
11 TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE  
12 AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY OF NEW YORK, AND THE CITY  
13 OF NEW YORK SHALL BE OR HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL  
14 AMOUNT OF ALL SUCH BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM,  
15 WHENEVER RECEIVED BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT  
16 TO ANY ORDER OR DETERMINATION ISSUED BY THE LOCAL HOUSING AGENCY ADMIN-  
17 ISTERING THIS CHAPTER OR THE LOCAL GOVERNMENT AGENCY RESPONSIBLE FOR  
18 REAL PROPERTY TAX ASSESSMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO  
19 BE SUBJECT TO RENT REGULATIONS AND, IF APPLICABLE, TO WAIVE THE RECEIPT  
20 OF ANY FURTHER TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH WOULD  
21 OTHERWISE BE DUE TO SUCH OWNER PURSUANT TO ANY SUCH ORDER OR DETERMI-  
22 NATION AND THE CITY OF NEW YORK SHALL BE OBLIGATED TO ACCEPT SUCH WAIV-  
23 ER. SUCH PAYMENT AND SUCH WAIVER SHALL BE MADE NO LATER THAN JUNE THIR-  
24 TIETH, TWO THOUSAND TWELVE. SUCH PAYMENT AND SUCH WAIVER SHALL RESULT  
25 IN THE EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT STABILIZATION  
26 AS IF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION  
27 HAD NEVER BEEN RECEIVED BY ANY OWNERS OF SUCH HOUSING ACCOMMODATIONS.  
28 PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID OR HAVE BEEN PAID  
29 INTO THE GENERAL FUND OF THE CITY OF NEW YORK. THE CITY OF NEW YORK  
30 SHALL, UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH  
31 REQUEST A STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIV-  
32 ER, AND THE BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH  
33 REQUEST SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT  
34 FOLLOWING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

35 S 10. Section 11-243 of the administrative code of the city of New  
36 York is amended by adding a new subdivision ff to read as follows:

37 FF. WHERE HOUSING ACCOMMODATIONS ARE LOCATED IN BUILDINGS WHICH WERE  
38 COMPLETED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR AND WHICH  
39 WERE PREVIOUSLY REGULATED PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUSING  
40 FINANCE LAW AND SUCH HOUSING ACCOMMODATIONS BECAME SUBJECT TO RENT  
41 STABILIZATION SUBSEQUENT TO THE PRIVATE HOUSING FINANCE LAW DISSOLUTION  
42 DUE TO THE RECEIPT OF TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT  
43 TO THIS SECTION, THE OWNER OF SUCH HOUSING ACCOMMODATIONS SHALL BE  
44 AUTHORIZED TO MAKE OR TO HAVE MADE TO THE CITY, AND THE CITY SHALL BE OR  
45 HAVE BEEN OBLIGED TO ACCEPT, PAYMENT OF THE FULL AMOUNT OF ALL SUCH  
46 BENEFITS, PLUS INTEREST AT A RATE OF NINE PER CENTUM, WHENEVER RECEIVED  
47 BY ALL OWNERS OF SUCH HOUSING ACCOMMODATIONS PURSUANT TO ANY ORDER OR  
48 DETERMINATION ISSUED BY THE DEPARTMENT OR BY THE DEPARTMENT OF HOUSING  
49 PRESERVATION AND DEVELOPMENT WHICH REQUIRED THE HOUSING ACCOMMODATION TO  
50 BE SUBJECT TO SUCH RENT REGULATIONS AND, IF APPLICABLE, TO WAIVE THE  
51 RECEIPT OF ANY FURTHER TAX EXEMPTION OR TAX ABATEMENT BENEFITS WHICH  
52 WOULD OTHERWISE BE DUE TO SUCH OWNER PURSUANT TO ANY SUCH ORDER OR  
53 DETERMINATION AND THE CITY SHALL BE OBLIGATED TO ACCEPT SUCH WAIVER.  
54 SUCH PAYMENT AND SUCH WAIVER SHALL BE MADE NO LATER THAN JUNE THIRTIETH,  
55 TWO THOUSAND TWELVE. SUCH PAYMENT AND SUCH WAIVER SHALL RESULT IN THE  
56 EXEMPTION OF SUCH HOUSING ACCOMMODATIONS FROM RENT STABILIZATION AS IF

1 TAX EXEMPTION OR TAX ABATEMENT BENEFITS PURSUANT TO THIS SECTION HAD  
2 NEVER BEEN RECEIVED. PAYMENT PURSUANT TO THIS SUBDIVISION SHALL BE PAID  
3 OR HAVE BEEN PAID INTO THE GENERAL FUND OF THE CITY. THE CITY SHALL,  
4 UPON REQUEST OF SUCH OWNER, PROVIDE WITHIN THIRTY DAYS OF SUCH REQUEST A  
5 STATEMENT SETTING FORTH THE AMOUNTS DUE FOR PAYMENT AND WAIVER, AND THE  
6 BASIS THEREOF. THE CITY'S FAILURE TO RESPOND TIMELY TO SUCH REQUEST  
7 SHALL TOLL THE RUNNING OF THE OWNER'S OBLIGATION TO MAKE PAYMENT FOLLOW-  
8 ING THE DELIVERY OF NOTICE OF SUCH INTENT TO THE TENANT.

9 S 11. Section 26-504 of the administrative code of the city of New  
10 York is amended by adding a new subdivision d to read as follows:

11 D. HOUSING ACCOMMODATIONS IN BUILDINGS COMPLETED OR SUBSTANTIALLY  
12 REHABILITATED AFTER JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR WHICH  
13 ARE NOT SUBJECT TO THE RENT STABILIZATION LAW, AS AMENDED, AS A RESULT  
14 OF THE PROVISIONS OF SUBDIVISION EIGHTEEN OF SECTION FOUR HUNDRED EIGHT-  
15 Y-NINE OF THE REAL PROPERTY TAX LAW AND SUBDIVISION FF OF SECTION 11-243  
16 OF THIS CODE AND WHICH ARE LOCATED IN A BUILDING WHICH HAD PREVIOUSLY  
17 BEEN SUBJECT TO REGULATION PURSUANT TO ARTICLE TWO OF THE PRIVATE HOUS-  
18 ING FINANCE LAW AND FOR WHICH THE DATE OF PRIVATE HOUSING FINANCE LAW  
19 DISSOLUTION OCCURRED AFTER JANUARY FIRST, TWO THOUSAND FOUR AND WHICH  
20 DID NOT BENEFIT FROM FEDERAL SECTION 8 RENT SUBSIDY, AND (1) WHICH WERE  
21 OCCUPIED ON THE DATE OF PRIVATE HOUSING FINANCE LAW DISSOLUTION AND IN  
22 WHICH NO VACANCY HAS OCCURRED SINCE THE DATE OF PRIVATE HOUSING FINANCE  
23 LAW DISSOLUTION AND FOR WHICH AGREEMENTS OR LEASES WERE ENTERED INTO  
24 FOLLOWING SUCH PRIVATE HOUSING FINANCE LAW DISSOLUTION PROVIDING FOR TWO  
25 TIER RENTS, SHALL BECOME SUBJECT TO THE RENT STABILIZATION LAW, AS  
26 AMENDED, AS OF THE EFFECTIVE DATE OF THIS SECTION, AND THE LOWER TIER  
27 RENT BILLED ON AUGUST THIRTIETH, TWO THOUSAND TEN, SHALL BE A PREFEREN-  
28 TIAL RENT UPON WHICH ALL FUTURE GUIDELINE AND OTHER PERMISSIBLE RENT  
29 INCREASES SHALL BE COMPUTED FOR THE PERIOD DURING WHICH THE TENANT IN  
30 OCCUPANCY ON THE DATE OF PRIVATE HOUSING FINANCE LAW DISSOLUTION REMAINS  
31 IN OCCUPANCY AND THE HIGHER TIER RENT IN EFFECT ON AUGUST THIRTIETH, TWO  
32 THOUSAND TEN, SHALL BE THE LEGAL REGULATED RENT, AND (2) WHICH WERE  
33 VACANT ON OR BECAME VACANT AFTER THE DATE OF PRIVATE HOUSING FINANCE LAW  
34 DISSOLUTION BUT IN WHICH NO VACANCY HAS OCCURRED SUBSEQUENT TO APRIL  
35 SECOND, TWO THOUSAND SIX, SHALL BECOME SUBJECT TO THE RENT STABILIZATION  
36 LAW, AS AMENDED, AS OF THE EFFECTIVE DATE OF THIS SECTION AND THE LEGAL  
37 RENT AS OF SUCH DATE SHALL BE THE RENT BILLED ON AUGUST THIRTIETH, TWO  
38 THOUSAND TEN.

39 S 12. This act shall take effect immediately, provided, that sections  
40 one and two of this act shall be deemed to have been in full force and  
41 effect on and after July 6, 1993; provided, further, that:

42 (a) the amendments to chapter 4 of title 26 of the administrative code  
43 of the city of New York made by sections one, two, three and eight of  
44 this act shall expire on the same date as such law expires and shall not  
45 affect the expiration of such law as provided under section 26-520 of  
46 such law;

47 (b) the amendments to the emergency tenant protection act of nineteen  
48 seventy-four made by sections four and five of this act shall expire on  
49 the same date as such act expires and shall not affect the expiration of  
50 such act as provided in section 17 of chapter 576 of the laws of 1974;

51 (c) the provisions of this act shall preclude in their entirety any  
52 and all claims in any administrative or judicial proceeding relating to  
53 the deregulation of housing accommodations which were subject to rent  
54 regulation immediately prior to the receipt of tax benefits pursuant to  
55 section 489 of the real property tax law and section 11-243 of the  
56 administrative code of the city of New York or which are or would be

1 subject to rent regulation pursuant to the ruling of the court of  
2 appeals in Roberts v. Tishman Speyer Properties, L.P., 13 NY3d 270,  
3 provided that the owner of such housing accommodations has acted in  
4 accordance with this act, regardless of whether such claims are brought,  
5 or any payments by such owner permitted under this act are made, prior  
6 or subsequent to the effective date of this act. For purposes of this  
7 section, "housing accommodations subject to the ruling of the state  
8 court of appeals in ROBERTS V. TISHMAN SPEYER PROPERTIES, L.P., 13 NY3D  
9 270" shall mean housing accommodations in buildings that were subject to  
10 the New York city rent and rehabilitation law, the New York city rent  
11 stabilization law of nineteen hundred sixty-nine or the emergency tenant  
12 protection act of nineteen seventy-four prior to the receipt of benefits  
13 pursuant to section 489 of the real property tax law, except as to (i)  
14 those housing accommodations rented after said tax benefits had expired,  
15 (ii) housing accommodations renting during the tax benefit period where  
16 each lease had the requisite deregulation notice, or (iii) those housing  
17 accommodations deregulated by administrative or court order, which hous-  
18 ing accommodations shall remain deregulated despite such ruling;

19 (d) if any provision or provisions of this act shall be held to be  
20 invalid, the validity of the remaining provisions shall not in any  
21 manner be affected or impaired thereby; and

22 (e) the provisions of this act shall preclude in their entirety any  
23 and all claims in any administrative or judicial proceeding, whether  
24 previously or hereafter commenced, relating to the regulation or rents  
25 of housing accommodations which are located in buildings completed or  
26 substantially rehabilitated after January 1, 1974 and which became  
27 subject to rent stabilization due to the receipt of tax exemption or tax  
28 abatement benefits pursuant to section 489 of the real property tax law  
29 and section 11-243 of the administrative code of the city of New York,  
30 provided that the owner of such housing accommodations has acted in  
31 accordance with this act, regardless of whether such proceedings are  
32 brought, or payments by such owner permitted under this act are made,  
33 prior or subsequent to the effective date of this act.