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REPORT ON LEGISLATION BY THE HOUSING AND URBAN DEVELOPMENT COMMITTEE

A.5438 M. of A. Silver S.226 Sen. Squadron

AN ACT to amend the New York Private Housing Finance Law (PHFL), in relation to determining eligibility for admission to certain limited-profit housing company accommodations (Mitchell-Lama Program).

THIS LEGISLATION IS APPROVED

The Housing and Urban Development Committee of the New York City Bar Association (HUD Committee) addresses legal and policy issues related to the urban environment with a particular emphasis on affordable housing preservation and development. This report is hereby submitted by the HUD Committee in support of A.5438/S.226, which would amend § 31 of the PHFL to expand the qualifying income range of eligible families for the Mitchell-Lama Program.

INTRODUCTION

Currently, § 31(2)(e) of the PHFL expands the Mitchell-Lama eligibility requirements¹ to include any family² whose probable aggregate annual income is between 100% and 125% of the Area Median Income (AMI), provided that said family meets the following criteria: (a) has two or more dependents and (b) pays a rental surcharge at admission to the Mitchell-Lama Program.

THE PROPOSED LEGISLATION

The proposed amendment to § 31(2)(e) of the PHFL removes the existing requirement that families whose incomes are between 100% and 125% of the AMI must have at least two dependents. Without this "two or more dependents" requirement, families with one or no dependents would qualify for the Mitchell-Lama Program, provided that (a) their probable annual income is between 100% and 125% of the AMI and (b) they pay a rental surcharge.

¹ Generally, in order to qualify for Mitchell-Lama housing, a person or family's probable aggregate annual income must not exceed the thresholds set forth in Section 31(2)(a) of the PHFL.

² The PHFL does not define "family," but the respective supervising agencies provide definitions of what constitutes a family member. See 28 R.C.N.Y. § 3-02(p)(2)(ii) (Definition of Family Member for the Department of Housing Preservation and Development); 9 N.Y.C.R.R. 1700.2(a)(7) (Definition of Family Member for the Division of Housing and Community Renewal).

Thus, the proposed legislation expands the pool of middle-income families who can benefit from the stock of affordable housing provided by the Mitchell-Lama Program by allowing otherwise eligible families with fewer than two dependents to qualify at the time of admission.

ANALYSIS

As discussed herein, the proposed legislation would help middle-income families with fewer than two dependents qualify for the Mitchell-Lama Program. Two case examples of such families who would benefit from the change are described below:

Case One

Mr. "A" is a part time music teacher and his wife, Mrs. "A," is a full time teacher at the New School. Mr. "A" does not work full-time because he is responsible for caring for the family's only dependent, a 7-year-old daughter named T. The "A" family's aggregate annual income in 2008 was slightly below 125% of AMI. Under the current law, the "A" family was ineligible to participate in the Mitchell-Lama Program. Even though the "A" family has a household income that did not exceed 125% of the AMI, they did not meet the "two or more dependents" requirement and therefore were ineligible for admission. If the proposed legislation were approved, the "A" family would have qualified for the Mitchell-Lama Program by paying the proposed surcharge.

Case Two

Ms. "B," who was also ineligible to participate in the Mitchell-Lama Program in 2008, is a single mother with two children and has similar aggregate annual income to the "A" family. She and her divorced husband each claim one child as a dependent on their separate tax returns. Like the "A" family, Ms. "B" was disqualified from admission because she did not meet the "two or more dependents" requirement. If the proposed legislation were approved, Ms. "B" could also pay a surcharge to the Mitchell-Lama Program to qualify with the one dependent.

RECOMMENDATION

The Mitchell-Lama Program was initially created to provide affordable housing to middle- income families. Many families have been rejected or placed on waiting lists because of the "two or more dependents" requirement. This proposed legislation would not only qualify families that have been on waiting lists for years, but would also provide additional income to the individual Mitchell-Lama housing developments from the rental surcharges collected. For these reasons, the Committee supports the bill and urges its enactment.

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