

13 NYCRR Section 16.10.

Review by Residents of Proposed Submission of an Offering Plan to Convert Residential Premises to Cooperative or Condominium Ownership

[\(General Business Law, § 352-e\[2-a\]\)](#)

(a) *Definitions.*

(1) *Review* shall mean inspection, examination, reading or perusal.

(2) *Proposed submission* shall mean the initial proposed offering plan which shall include an affidavit of no excessive long term vacancies.

(3) *Resident* shall mean occupant, tenant, subtenant of each of the apartments in the affected premises or their attorneys.

(b) *Review of proposed submission:* With respect to any proposed offering involving conversion of a rented building or groups of buildings or development to cooperative or condominium status within the State of New York, the offeror shall give each and every resident a 15 day period after the date of the submission of the proposed offering plan to the Attorney General for examination of the said proposed submission. Said period of examination shall commence on the date of submission to the Attorney General or within three calendar days after mailing notice to residents pursuant to subdivision (c) of this section with enclosures required pursuant to subdivision (e) of this section.

(c) *Notice to residents.* Written notice of said proposed submission shall be mailed to each resident of the premises sought to be converted and a copy thereof posted in a prominent place in the lobby or lobbies of the building or buildings affected. Said notice shall set forth the date when the proposed submission was made to the Attorney General which shall be the same date the aforesaid notice of opportunity to review shall be mailed to the residents.

(d) *Enclosures with notice to residents.* The notices mailed to residents shall be accompanied by the initial proposed offering plan and a copy of the affidavit of no excessive long term vacancies. On the face of the proposed plan, there shall be printed in red ink, the following legend:

“A PROPOSED OFFERING PLAN RELATING TO CONVERSION TO COOPERATIVE (OR CONDOMINIUM) STATUS OF THE APARTMENTS IN THIS BUILDING HAS BEEN SUBMITTED TO THE DEPARTMENT OF LAW OF THE STATE OF NEW YORK, BUREAU OF SECURITIES AND PUBLIC FINANCING, BUT HAS NOT BEEN ACCEPTED FOR FILING AND HAS NOT YET BECOME EFFECTIVE. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THESE APARTMENTS MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED UNTIL SUCH TIME AS A COMPLETED OFFERING PLAN HAS BEEN ACCEPTED FOR FILING AND A FINAL COPY DELIVERED TO EACH PURCHASER.”

(e) *Form of notice of residents.* The notice of residents of opportunity to review shall be in substantially the following form:

Name

Address

Date _____

Re: Address of Premises

Proposed Conversion

To Cooperative (or Condominium) Status

Dear Resident:

Please take notice that the undersigned sponsor has this day submitted to the Attorney General of The State of New York an initial proposed offering plan for the conversion of premises New York, to cooperative (or condominium) status. This is a preliminary plan which has not yet become effective.

Under the laws of the State of New York residents including tenants and subtenants have 15 days from the receipt of this plan within which to examine said proposed submission. Herewith enclosed for your convenience is a copy of the initial proposed offering plan which you may review and retain. Also included herewith is a copy of an affidavit of no excessive long term vacancies. One copy of these documents is also available for review during the same period at the ~~office~~ New York State Department of Law, Real Estate Finance Bureau, of the Attorney General at, Two World Trade Center, 120 Broadway, 23rd Floor, New York City, N.Y. 10271.

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If and when an offering plan is accepted for filing by the Attorney General pursuant to law you will be duly notified and a copy of the plan as accepted will be delivered to you. It is only thereafter that the offering will actually be made.

Comments regarding the proposed submission may be addressed to the sponsor with a copy forwarded to the New York State Department of Law, State of New York, Bureau of Securities and Public Real Estate Financing Finance Bureau, 120 Broadway, 23rd 48th Floor, Two World Trade Center, New York, N.Y. 10271047, or you may wish to write to the Department of Law directly.

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Very truly yours,

(f) *Affidavit of service of notice.* An affidavit of such mailing and posting shall be mailed or delivered to the Attorney General and copies thereof shall be mailed to the residents within three days of service. Said affidavit shall include the name, address and apartment number of each such resident, tenant and subtenant, and a copy of said notice.

(g) *Affidavit of no excessive long term vacancies.*

(1) Definition.

(i) *Long term vacancies* shall mean apartments not leased and occupied by bona fide tenants or subtenants for more than five months prior to the date of a proposed submission.

(ii) *Excessive* shall mean double the normal average vacancy rate for the building or group of buildings or development for two years prior to the last preceding January 31 prior to the date of submission, in cases where apartments in the building or group of buildings or development were offered for the entire period involved.

(iii) *Offered for entire period involved* shall mean operated as rental property for the entire period involved.

(2) *The affidavit of no excessive long term vacancies* sworn to by the sponsor (if a corporate sponsor, by its president) shall contain a representation of the average vacancy rate for two years prior to the last preceding January 31 prior to the date of submission and a representation setting forth the vacancy rate for the five month period next preceding the date of submission of the proposed offering plan for conversion from rental to cooperative or condominium status.

(i) Annexed to the affidavit and made a part thereof as exhibit "A" shall be a schedule of apartments located in the premises sought to be converted which shall contain a list of all apartments, the names of the tenants (or occupants, if different from the tenant), the date of commencement of the term of their occupancy and the termination thereof for the two year period to the last preceding January 31.

(ii) Annexed to said affidavit and made a part thereof as exhibit "B" shall be a schedule of apartments located in the premises sought to be converted which shall contain a list of all apartments, the names of the tenants (or occupants, if different from the tenant), the date of their occupancy and termination thereof for a five-month period next preceding the date of submission of the proposed offering plan.

(iii) Annexed to the affidavit and made a part thereof as exhibit "C" shall be a schedule of apartments and the names of the tenants or occupants who are related to the sponsor or any of its principals by blood or marriage or who are employees or agents of the sponsor or selling agent or who have had prior business or professional relations with the sponsor or selling agents or any of their principals.

(iv) Annexed to the affidavit and made a part thereof as exhibit "D" shall be a schedule showing in part I the vacancy rate for the two-year period prior to next preceding January 31st and how calculated, and in part II the vacancy rate for the five-month period next preceding the date of submission of the proposed offering plan and how calculated.

(Section filed Oct. 8, 1974.)