

## 13 NYCRR Section 18.2.

### Procedure for Submission

(a) The proposed offering plan and the exhibits described below shall be submitted to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23<sup>rd</sup> Floor, New York, N.Y. 10271.

(b) The exhibits shall accompany the proposed offering plan submitted to the Department of Law and shall be subject to the sanctions of article 23-A of the G.B.L. Whenever an exhibit document is marked “Original” (“Orig”) on the list set forth below, it means that at least one document must be a duly executed, original document. Whenever a document is marked “copy” on the list set forth below, it means that a true and complete copy of the document must be included.

(c) The following are to be included when submitting a proposed offering plan pursuant to this Part:

(1) A transmittal letter addressed to the Department of Law that is signed and affirmed by the attorney who prepared the plan, containing the statements required by section 18.4(a) of this Part, without qualification or alteration in substance. As specified in section 18.2(c)(4) of this Part, the transmittal letter must expressly indicate any exhibit that is not included, (apart from those noted) and set forth the reasons for the omission. Exemption applications submitted pursuant to section 18.1(k) of this Part must be annexed to and submitted with the transmittal letter. Omissions and additions to the table of contents must be noted and explained. As specified in section 18.3(m)(1)(ii) of this Part, note if any model form(s) for description of tenants' rights have been used. Pursuant to section 18.3(s) of this Part, the transmittal letter must note whether the offering plan contains or refers to a short-term mortgage, negative amortization mortgage, wraparound mortgage or other type of mortgage involving any unusual risks. Pursuant to section 18.3(t)(12) of this Part, the transmittal letter must note financing offered to purchasers which contains any unusual risks. Pursuant to section 18.3(bb)(5)(v) of this Part, the transmittal letter must note whether the offering plan contains any description of or reference to leases with sponsor or affiliates of sponsor.

(2) Staple or clip to the transmittal letter a check (certified or uncertified) for one half of the filing fee under [G.B.L. section 352-e\(7\)\(a\)](#) (a nonrefundable deposit) payable to “New York State Department of Law”. The filing fee(s) is (are) based on the maximum total of the cash amount of the offering to non-tenant purchasers and of the mortgages that will encumber the property after the closing.

(3) Three copies of a typed or printed, bound offering plan.

(4) Two sets of exhibits. Each set is to be in binders from which documents can be removed easily, and the binders must be indexed with tabs. The cover of each binder must be labeled with the address of the cooperative and the name, address and telephone number of the attorney who prepared the plan. One of the binders must be marked “Original” and contain the original documents required below. Each binder must contain an index of the documents. The transmittal letter required by paragraph (1) of this subdivision must note the omission of any exhibit, other than the exceptions stated below, that is not included and the reason for the omission. If exhibits B-2, B-3, B-6, B-7, B-8, B-12, B-13, B-16 or B-18 are omitted solely because exhibit is not applicable to the offering, the omission need not be noted in the transmittal letter.

(i) Part A of the exhibits (Certifications) shall consist of the following documents. Photocopies or conformed copies of the certifications shall appear in the offering plan.

(A-1) Certification by sponsor and sponsor's principals signed by “sponsors” and “principals” as defined in section 18.1(c) and (d); see section 18.4(b). (Orig)

(A-2) Certification by sponsor's engineer or architect concerning the description of the property and building condition in Part II of the plan and at Exhibit C-1; see section 18.4(c). (Orig)

(A-3) Certification by expert as to adequacy of projected income and expenses for the first year of cooperative operation; see section 18.4(d). (Orig)

(ii) Part B of the exhibits (General) shall consist of the following documents:

(B-1) Title company report, including a report on housing or building code violations of record, dated or updated within 90 days of submission. (Orig.)

(B-2) Proposed management agreement. (Orig.)

(B-3) Copies of any contract which: (a) will be binding on the apartment corporation for \$2,500 or more per year; (b) has a term in excess of two years; or (c) is with sponsor, a business affiliate of the sponsor or a principal of the sponsor.

(B-4) Copy of letter from an insurance company or its authorized agent, stating proposed insurance coverage and amounts, and the annual premium or premiums.

(B-5) Copy of an opinion from an independent, licensed insurance broker, insurance appraiser or real estate appraiser representing that the fire insurance coverage budgeted in the plan is adequate (a) so that the insured shall not be a coinsurer if policy contains a coinsurance provision, or (b) to cover replacement cost if policy is for an agreed amount which waives coinsurance.

(B-6) Copy of § 352-a/§ 352-b Designation of Secretary of State as agent (applicable only to out-of-state issuers, sponsors, principals and/or selling agents).

(B-7) For cooperatives located outside of New York, New Jersey, Florida, Pennsylvania and Connecticut, copy of statutes and regulations concerning the registration and formation of cooperatives. All cooperatives located outside of New York must include evidence of compliance with local laws and regulations concerning registration and formation of cooperatives.

(B-8) Copy of the form of promissory note and mortgage on the proprietary lease, security agreement, stock power, assignment of lease and recognition agreement required by sponsor if the plan offers financing, together with any other document which significantly affects a purchaser's obligations for financing offered by sponsor.

(B-9) Copy of certificate of incorporation and receipt from Secretary of State for the apartment corporation, if available.

(B-10) Copy of specimen stock certificate. Include any restrictions on transferring and any other endorsements.

(B-11) Copy of any mortgage and note or bond that will be a lien on the property after closing or which presently encumbers the property.

(B-12) Copy of any mortgage financing commitment letter and amendments or extensions of the commitment letter.

(B-13) Copies of present and proposed professional and commercial leases, and any concession agreements.

(B-14) Copy of contract of sale or exchange between the sponsor and the apartment corporation that conforms to the contract described in the offering plan, and copy of proposed deed to the apartment corporation.

(B-15) Rent roll certified by the sponsor, managing agent or current owner, as of a date that is within 60 days prior to submission, including the name of each tenant, apartment number, rent, term and termination date of lease, and status under any rent regulatory laws.

(B-16) If the building receives tax abatement or exemption benefits, copy of proof of the level and duration of benefits described in the plan.

(B-17) Copy of sponsor's or present owner's deed to the property, and copy of contract of sale between owner and sponsor if sponsor is contract vendee.

(B-18) Copy of any other material document(s), each of which should be described in the transmittal letter, *e.g.*, copy of regulatory agreement with a government agency.

(B-19) Copy of the escrow agreement between the sponsor and the attorney(s) acting as escrow agent. If the model form is not used, so indicate. Copy of bank forms to be used to open ~~the~~any escrow account.

(iii) Part C of the exhibits (Engineering) shall consist of the following documents:

(C-1) Architect's or engineer's detailed description of the property and building condition, with the architect's or engineer's seal and original signature. The description must be dated within 90 days of submission to the Department of Law and conform to the requirements of section 18.7 of this Part; see Exhibit A-2.

(C-2) Copy of currently valid temporary, partial or permanent certificate of occupancy. If a certificate of occupancy is not available because the building was constructed before the municipality began to issue certificates of occupancy, include a representation from sponsor that the proposed use by the apartment corporation is identical to the present use of the building.

(iv) Part D of the exhibits (Other Information) shall consist of the following documents:

(D-1) Signed M-10 form(s), broker dealer statement, for the selling agents (Orig), unless exempted by [General Business Law section 359-e](#), and signed M-2 form(s), salespersons' statements, for all individual employees who act as salespersons (Orig) unless exempted by [General Business Law section 359-e](#). Forms do not have to be submitted if currently valid registration forms are on file with the Department of Law from prior offerings and a copy of the form is submitted as Exhibit D-1.

(D-2) Signed M-10 form(s), for the sponsoring entity, which shall include all officers, directors, partners or principals who are "dealers" for purposes of [G.B.L. section 359-e](#) (Orig). Forms do not have to be submitted if currently valid registration forms are on file with the Department of Law from prior offerings and a representation to that effect is stated in Exhibit D-2 (Orig).

(D-3) Signed RI-1 form(s), registrant information form(s), concerning prior convictions, judgments, administrative actions, bankruptcy, employment and business affiliations for all principals of the sponsor (Orig).

(D-4) Sponsor's affidavit that sponsor's net worth is or will be sufficient to meet the requirements of [G.B.L. section 352-k](#) and all of the unsecured obligations sponsor assumes in the offering plan, including sponsor's obligations for unsold shares (Orig).

(D-5) An affidavit from sponsor and principals of sponsor, as defined in section 18.1(c) and (d) of this Part, stating whether sponsor and principals of sponsor have taken part in public offerings of cooperative interests in realty, including condominiums, in or from New York, which were initially offered during the preceding five years. State the addresses of the realty and approximate date the offering plan was filed, and the date of the closing for cooperatives or the date of first closing for condominiums (Orig).

(D-6) Completed statistical information card (available from the Department of Law).

(d) Upon preliminary advice from the Department of Law that the proposed offering plan may be filed, sponsor must submit:

(1) checks (certified or uncertified) for the balance of the filing fees under [G.B.L. section 352-e\(7\)\(a\)](#) and the filing fees under [G.B.L. section 359-e\(5\)](#), payable to “New York State Department of Law”;

(2) ~~six~~ three copies of the typed or printed, bound offering plan; and

(3) two copies of the rent roll as of the month the plan is to be filed, certified by the sponsor, managing agent or current owner.

(e) The plan is filed on the date indicated in the letter from the Department of Law stating that the plan is filed.

(f) Sponsor should present the plan within a reasonable time after the filing.