23-953 - Additional requirements for compensated developments and MIH developments
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LAST AMENDED
3/22/2016

(a) Compensated development or MIH development building permits

(1) HPD may issue a permit notice to the Department of Buildings at any time on or after the regulatory agreement date. The Department of Buildings may thereafter issue building permits to a compensated development that utilizes floor area compensation or an MIH development, based on the affordable housing or contribution to the affordable housing fund described in such permit notice.

(2) If HPD does not receive confirmation that the regulatory agreement has been recorded within 45 days after the later of the regulatory agreement date or the date upon which HPD authorizes the recording of the regulatory agreement, HPD shall suspend or revoke such permit notice, notify the Department of Buildings of such suspension or revocation and not reinstate such permit notice or issue any new permit notice until HPD receives confirmation that the regulatory agreement has been recorded or any applicable alternate procedure has been completed. Upon receipt of notice from HPD that a permit notice has been suspended or revoked, the Department of Buildings shall suspend or revoke each building permit issued pursuant to such permit notice which is then in effect for any compensated development or MIH development.

(b) Compensated development or MIH development certificates of occupancy

(1) The Department of Buildings shall not issue a temporary or permanent certificate of occupancy for any portion of the compensated development that utilizes floor area compensation or MIH development until HPD has issued a completion notice with respect to the affordable housing that generates such floor area compensation or satisfies the requirements of paragraph (d) of Section 23-154 (Inclusionary Housing) or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). However, where any story of a compensated development or MIH development contains one or more affordable housing units, the Department of Buildings may issue any temporary or permanent certificate of occupancy for such story if such temporary or permanent certificate of occupancy either includes each affordable housing unit located in such story or only includes dwelling units or rooming units that are affordable housing units. Nothing in the preceding sentence shall be deemed to prohibit the granting of a temporary or permanent certificate of occupancy for a super’s unit.

(2) HPD shall not issue a completion notice with respect to any portion of any generating site or MIH site unless:

(i) the Department of Buildings has issued temporary or permanent certificates of occupancy for all affordable housing described in such completion notice and such certificates of occupancy have not expired, been suspended or been revoked; or

(ii) where a generating site contains affordable housing that had a valid certificate of occupancy on the regulatory agreement date and no new temporary or permanent certificate of occupancy is thereafter required for the creation of such affordable housing, HPD has determined that all renovation and repair work required by the applicable regulatory agreement has been completed and all obligations with respect to the creation of such affordable housing have been fulfilled in accordance with the applicable regulatory agreement.