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NYC'S No-Longer-Ailing Developers Seek to Retain 1971 Tax Break

By Henry Goldman and Freeman Klopott

An obscure state law enacted 44 years ago giving tax breaks to a struggling New York City real estate industry will expire in June, and a battle is brewing over whether it should live or die.

In a city where two-bedroom Manhattan apartments now rent for an average of [\\$5,248 a month](#), affordable housing is becoming increasingly out of reach as developers add luxury residential towers to the skyline. The real estate industry says abolishing [the law](#) will make construction of rental properties unprofitable. A 1984 amendment requires developers receiving an abatement to keep 20 percent of their units at below-market rents.

Groups representing thousands of financially squeezed tenants say the law gives developers generous breaks without forcing them to create enough affordable apartments, costing taxpayers \$1 billion a year in lost revenue. Money would be better spent on rent subsidies, vouchers and low-cost financing, they say.

The [Real Estate Board of New York](#), the industry's lobbying arm, says that without the law known as 421-a, no apartments will be built in a city whose construction costs, land prices and taxes are among the highest in the world.

"We welcome anybody looking at the numbers to tell us that rental housing can be built in this city without assistance," said Steven Spinola, president of the group, whose members spent at least \$21 million on state elections last year. "When someone calls for the end of 421-a, they're calling for the end of rental-property development."

No Future

The law was created in 1971 to stimulate construction when builders saw no future in New York City, which teetered on the brink of bankruptcy four years later. It exempts developers of multi-unit residential buildings from paying property taxes on new construction for as long as 25 years.

The expiration looms as Mayor Bill de Blasio puts into motion his plan to create or preserve 200,000 units of affordable housing by 2025. The dispute over 421-a shows the limits of his power in a state where the governor and legislature dominate city governance to the point where even the installation of a traffic-light camera must get approval from Albany.

It's also placed de Blasio between tenants of modest income -- the heart of his political base -- and an industry that accounted for \$15.4 billion of the city's \$41 billion in 2012 local revenue.

Delsenia Glover, campaign manager for Alliance for Tenant Power, a coalition of affordable-housing advocates, said that if the law is extended, it would have the unintended consequence of gentrifying minority neighborhoods.

"We will wait and see what he says about this," she said.

Not Enough

The mayor, the first Democrat to run City Hall in two decades, says he agrees that developers need tax incentives and other inducements to create affordable housing. At the same time, he's sided with tenant advocates who say 421-a isn't doing enough to help him reach his goal.

"The administration has made very clear that the current 421-a program has not delivered nearly enough affordable housing for the tax benefit provided," said Wiley Norvell, a mayoral spokesman.

The 421-a program was thrust into the spotlight this year when it appeared in the federal criminal complaint that led to the indictment of former Assembly Speaker Sheldon Silver.

U.S. Attorney Preet Bharara said in the [complaint](#) that Silver's power over 421-a and other real estate regulations helped him persuade a developer to sign with a law firm that was allegedly kicking back a portion of its fees to Silver.

Silver, a Manhattan Democrat, says he'll be exonerated. He stepped down as speaker Feb. 2.

The Republican-controlled senate, which historically has supported real estate interests, is facing its own leadership crisis after WNBC-TV and the New York Times reported that Majority Leader Dean Skelos of Long Island was also under federal investigation. He says he's cooperating. Scott Reif, a Skelos spokesman, declined to comment.

Cuomo's View

Governor Andrew Cuomo, a Democrat who raised more than \$12 million from the real estate industry in campaigns over the past seven years, according to the [National Institute on Money in State Politics](#), said April 24 that he wouldn't object if the law were extended.

When 421-a was created, there was no requirement that developers include below-market apartments. In 1984, the law was adjusted to require affordable units for projects built below 110th Street in Manhattan. The area has since been [expanded](#) to parts of the city's other four boroughs.

The exemption can last between 10 and 25 years on the condition that 20 percent of the units are affordable to people earning 60 percent of the area's median income, or about \$1,260 per month for a two-bedroom apartment, according to a January [report](#) by the Association for Neighborhood and Housing Development, a nonprofit that promotes low-cost housing.

Of the 153,000 units that received a 421-a tax break in 2013, only 12,748 were affordable, the report said.

Richard Anderson, president of the **New York Building Congress**, an association of developers, architects, lawyers, construction companies and unions, said builders spent a record \$11.9 billion last year creating 20,000 units of mostly super-luxury housing.

"This is no longer a city for the rich; it's for the super-rich," he said. While 421-a may help increase affordable housing, it may not be the most effective way, he said.

"An objective analysis of the program is long overdue," he said.