Preserving At-Risk Affordable Home Ownership: HDFC Coops and Our Community

Manhattan Borough Board Meeting

July 21st, 2016

What is an HDFC Coop?

- An HDFC Coop is a cooperative formed under Article XI of the Private Housing Finance Law (PHFL) which by statute has income restrictions
- All buildings have income restrictions for incoming shareholders spelled out in their Certificates of Incorporation
  - Most buildings have restrictions based on the apartment's maintenance and utility payments
- Most HDFC Coops that were formed via the City of New York have a tax exemption called the DAMP cap (a cap on assessed value) which expires in June of 2029
  - Example: current cap (2016/2017) is $9,787. A 10 unit building will only pay taxes on $97,870 x tax rate (as opposed to Assessed Value which is typically much higher)

HDFC Coops: The Basics

- 1,048 Coops in HPD's Portfolio comprised of 1,274 buildings
- 681 buildings in Manhattan
- Only 207 Coops with Regulatory Agreements (~20%)
- 841 Coops with no HPD oversight

Challenges Facing HDFC Coops

- Predominant themes of HDFC coop issues:
  - High priced sales
  - Illegal subletting
  - Mismanagement of buildings
  - Financial distress - 27% of HDFC Coops are in significant financial distress
- Some lack of clarity surrounding PHFL – creates misunderstandings about how sales should occur
- Especially in buildings without Regulatory Agreements, HPD often does not know about these problems until it is too late
- HDFC Coop buildings comprise almost 37% of all buildings in Round X of Third Party Transfer
- HPD's current avenues to help are limited under Article XI of the Private Housing Finance Law (PHFL). HPD has authority over formation, dissolution, and changes to certificate of incorporation

Proposed Changes and New Regulatory Agreement: Why Now?

- HPD has worked closely with a taskforce of interested stakeholders, and expects that introducing this Regulatory Agreement will create more clarity for buildings about the affordability intentions of Article XI
- With more information, HPD will have a greater ability to identify problems before they become too expensive or too far-gone to fix
- A new Regulatory Agreement increases HPD's ability to help
- The new Agreement aims to preserve true affordability: maintaining income restrictions, while introducing asset restrictions and caps on sales prices (in buildings that vote to sign the Agreement)
- As the DAMP cap begins to phase out, some buildings and shareholders face difficulty acquiring loans. The new Agreement will create more certainty for lenders.

Provisions of Regulatory Agreement

- 40-year Agreement with corresponding tax exemption that will be more generous than the current tax exemption (DAMP cap which expires in 2029)
  - A deeper exemption to account for added requirements in the Regulatory Agreement
  - Every eligible HDFC Coop – even high-value coops – would receive a tax benefit
  - The lowest value coops, which experience high rates of financial distress, would pay no property taxes on the residential part of their building, and could use the savings to pay down delinquent tax bills or making building improvements
- To improve a building's overall financial health, the new Agreement will require a 30% flip tax. When units are sold, 30% of the profit from that sale will go to the building's reserve fund

Provisions of Regulatory Agreement

- Requires routine increases to maintenance fees (in order to keep up with expenses)
- HDFCs that sign this Agreement must employ the services of a third party monitor and a third party manager:
  - Manager's job is to help the coop operate effectively
  - Monitor's job is to safeguard the sustainability and affordability of the building and to see that the building is adhering to Regulatory provisions
  - If HPD deems an HDFC to be managing itself well, the HDFC can apply annually for a waiver to the third party manager requirement
- Additional reporting to HPD and Monitor to ensure buildings are in good health and are exercising good governance and abiding by regulatory restrictions

Provisions of Regulatory Agreement: Income & Sales Restrictions

- Eligibility for becoming a shareholder in an HDFC:
  - Household income at or below 120% of AMI ($108,750 for a family of 4 in 2016)
  - Household assets at or below 175% of AMI
  - Household must make the HDFC unit its primary residence
    - Shareholders cannot sublet their apartments for more than 18 months cumulative out of a five year period, and they must obtain Board and Monitor approval if they choose to sublet their units
  - Shareholders cannot own property within 100 miles of New York City
  - Sales of units at prices affordable to 110% of AMI or below

Preserving Affordable Housing

- HPD wants to be proactive in helping preserve this limited and crucial affordable housing stock; the proposed Regulatory Agreement will be instrumental to achieving this goal
- This Agreement creates needed insight into how buildings are performing, enabling HPD to be able to proactively work with struggling properties and help resolve problems before it’s too late
- The Agreement provides more ways for HPD to identify problems and intervene before in-rem foreclosure becomes the only solution

Questions?