CONCRETE THOUGHTS

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421a Benefits For Dummies

Unfortunately, many politicians don't have a clue.

If I read one more comment from an elected official condemning the 421a tax abatement program, my head is going to explode.

The reason their comments have been so frustrating is that their positions show very clearly that they have no idea how the program they are condemning actually works. Nor do they understand the benefits this incentive provides to the market and to New York.

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The 421a program was initiated in 1971 as an incentive for the private sector to build new residential apartments in the city. To date, the program has been responsible for the construction of more than 110,000 units. The program was significantly hamstrung in 2006, as many elected officials felt that an incentive was no longer needed to induce new residential construction, given the strength of the New York City development market at that time.

As a result, effective Dec. 28, 2007, several fundamental changes to the way the program was implemented went into effect (the reforms curtailed the certificate program, under which affordable developments in qualifying areas created certificates that could be sold to developers in other areas). The 421a benefits vary depending on factors such as location, method of construction and review of compliance with requirements for affordable housing. The Department of Housing Preservation and Development determines eligibility and approves the application, and the Department of Finance administers the benefits.

The program provides a declining property tax exemption based on the new value created on tax lots upon which new construction is focused (the key phrase here is "new value created," but we will come back to this shortly). The benefits generally apply to new construction of multiple dwellings on lots that were vacant or under-improved prior to construction of the new building.

Market-rate projects that are not eligible for 421a because they are located in the exclusion areas, but that otherwise meet the requirements of 421a, can qualify for a 10- or 20-year partial tax exemption by participating in the 421a Affordable Housing Program. The developer of a project that receives benefits must construct or rehabilitate on-site or off-site affordable units. Generally, one affordable unit must be constructed for every five units in the project receiving benefits.

Recently on CNBC, City Councilman Brad Lander called the program "an outrageous giveaway."

"We can't afford to be giving away millions of dollars in tax breaks for nothing," he added while discussing some of the high-profile luxury properties that may qualify for the program. I don't mean to single out Mr. Lander, because we have all heard the very same comments from dozens of legislators who are attempting to build their voter bases. Rather than advocating for the elimination of the program, they should be advocating to bring back the pre-2006 421a program.

Let's take a look at the phrase, "tax breaks for nothing." Really? Nothing? Give me a break.

The benefits make many projects feasible when they wouldn't otherwise be feasible. In other words, these projects may not have been built if the benefits were not available. Recent development trends support this thesis. Moreover, and more importantly, the benefits only impact the new value created by the new development (I told you we would get back to this). This means that if a site is presently under-improved with smaller properties, the city may be collecting real estate taxes of, say, $100,000 per annum. After the new building is constructed, if it participates in the program, taxes on it remain $100,000. It is only the increase in taxes that is capped, and it is not capped in perpetuity. The benefit burns off according to a schedule. Within as little as 10 years, that tax parcel of land may be producing millions more in real estate taxes for the city.

So while the "millionaires and billionaires" who purchase units in these luxury buildings pay lower taxes initially, just one of them may, in the short-term, pay more in real estate taxes on one single apartment than the entire tax lot was generating for the city prior to the construction of the new building. Multiply this benefit by the dozens, or hundreds, of apartments in a development, and the financial benefits to the city are obvious.

Add to this increase in revenue the number of affordable housing units brought to the market and the thousands of additional construction jobs that are created by the new developments, and the program is a win-win for all stakeholders. If elected officials want to truly benefit the city, they should advocate taking the 421a program back to its pre-2006 form. Greater tax revenue, more jobs and even more desperately needed affordable housing would be the result.

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