

CITY PLANNING COMMISSION DISPOSITION SHEET

**SPECIAL MEETING:
MONDAY, NOVEMBER 4, 1991
1:00 P.M. IN SPECTOR HALL**

Lois McDaniel, Calendar officer
22 Reade Street, Room 2E
New York, New York 1000-1216
(212) 720-3370

CAL NO.	ULURP NO.	CD NO.	C.P.C. ACTION	CAL NO.	ULURP NO.	CD NO.	C.P.C. ACTION
1	N 910609(A) ZRY		Favorable Report Adopted	23			
2	N 910609(A) ZRY		Motion to Amend Defeated	24			
3				25			
4				26			
5				27			
6				28			
7				29			
8				30			
9				31			
10				32			
11				33			
12				34			
13				35			
14				36			
15				37			
16				38			
17				39			
18				40			
19				41			
20				42			
21				43			
22				44			

COMMISSION ATTENDANCE:	Present Absent	(P) (A)	COMMISSION VOTING RECORD: Calendar Numbers													In Favor - Y Oppose - N Abstain - AB	
			I	M	O	T	I	O	N	T	O	A	M	E	N	D	
Richard L. Schaffer, <i>Chairman</i>	P	Y	N														
Victor G. Alcea, <i>Vice Chairman</i>	A	Y															
Eugenie L. Birch	P	Y	N														
Amanda M. Burden	P	Y	Y														
Anthony I. Giacobbe	P	Y	N														
Maxine Griffith	A																
James C. Jao, <i>R.A.</i>	P	Y	N														
Brenda Levin	P	Y	Y														
Joel A. Miele, <i>SR., P.E.</i>	P	Y	N														
Edward T. Rogowsky	P	Y	N														
Ronald Shiffman	P	Y	N														
Jacob B. Ward	P	Y	N														
Deborah C. Wright, <i>Commissioners</i>	P	Y	N														

MEETING ADJOURNED AT: 3:32 P.M.

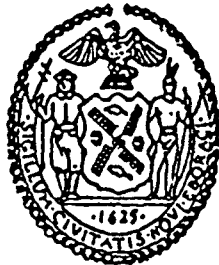
COMPREHENSIVE
CITY PLANNING CALENDAR

of

The City of New York

CITY PLANNING COMMISSION

SPECIAL MEETING OF THE CITY PLANNING COMMISSION
HELD IN SPECTOR HALL, 22 READE STREET, MAIN FLOOR
NEW YORK, NEW YORK 10007



MONDAY, NOVEMBER 4, 1991

RICHARD L. SCHAFER, *Chairman*
VICTOR G. ALICEA, *Vice-Chairman*
EUGENIE L. BIRCH, A.I.C.P.
AMANDA M. BURDEN
ANTHONY I. GIACOBBE
MAXINE GRIFFITH
JAMES C. JAO, R.A.
BRENDA LEVIN
JOEL A. MIELE, ST., P.E.
EDWARD T. ROGOWSKY
RONALD SHIFFMAN, A.I.C.P.
JACOB B. WARD
DEBORAH C. WRIGHT, *Commissioners*

I. REPORTS

CITYWIDE

No. 1

(Modified amendments to Sections 15-50 to 15-58 of the Zoning Resolution, continuing the Relocation Incentive Program (BRAC) to January 1, 1998 in Brooklyn Community Districts 1, 2 and 6, Manhattan Community Districts 1, 2, 3, 4, 5 and 6, and Queens Community Districts 1 and 2. This modification to the proposed text substitutes the Commissioner of Employment for the Commissioner of Housing Preservation and Development on the BRAC Board of Directors.)

N 910609(A) ZRY

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 200 of the New York City Charter, for amendment of the **Zoning Resolution** of the City of New York, relating to Sections 15-50 to 15-58, as follows:

Matter in **bold** is new, to be added

Matter in ~~strikeout~~ is old, to be deleted

Matter *in italic* is defined in Section 12-10

15-50 RELOCATION INCENTIVE PROGRAM

15-51

Preamble

In order to reduce the deleterious effects on commercial and manufacturing uses caused by the reduction of existing floor area available to such uses as the result of the conversion of non-residential buildings to dwelling units or joint living-work quarters for artists, while permitting owners to convert such buildings to dwelling units or joint living-work quarters for artists, thereby increasing the value of such buildings, a Relocation Incentive Program is established. These general goals include, among others, the following specific objectives:

- (a) To provide incentives for eligible commercial and manufacturing uses displaced by the conversion of commercial or manufacturing buildings, or portions thereof, to dwelling units, to relocate within the City of New York.
- (b) To provide certainty to eligible commercial and industrial tenants as to the extent and availability of relocation incentives.
- (c) To ensure that such incentives are available to the eligible commercial or manufacturing uses at the time they relocate.
- (d) To assist in the retention of industrial firms and industrial relocation within the City of New York in accordance with the intent of this Chapter.

Under the Relocation Incentive Program, owners who plan to convert space used for commercial and manufacturing uses to dwelling units or joint living-work quarters for artists under the provisions of this Chapter or Sections 42-14(D), 74-711, 74-78 and 111-00 of this Resolution will be required to pay a conversion contribution or provide direct relocation payments before they can obtain an Alteration Permit. The conversion contribution will be paid into the Industrial Relocation Fund to be administered by the New York City Business Relocation Assistance Corporation. These funds will be used to provide industrial retention and relocation assistance in accordance with the intent of this Chapter.

Building owners may receive a discount from the conversion contribution if they provide direct assistance to manufacturing tenants which relocate in New York City. The Board of Standards and Appeals shall administratively review applications, authorize discounts or exclusions, and certify that the appropriate relocation assistance has been provided.

Prior to the issuance of an Alteration Permit for the development of dwelling units or joint living-work quarters for artists, an owner must present proof of either payment of the conversion contribution or Board of Standards and Appeals approval of direct relocation payments.

15-52

Definitions

For the purposes of Sections 15-50 through 15-58 matter in italics is defined in this Section or in Section 12-10 (DEFINITIONS).

Applicable Building

An "applicable building" is any existing *building or other structure*, erected prior to December 15, 1961, which:

- (a) If in Manhattan Community Districts 1, 2, 3, 4, 5, and 6
 - (1) is located in a zoning district in which *residential or joint living-work quarters for artists use* is permitted; and
 - (i) on September 1, 1980 was used for a use listed in Section 15-58; or
 - (ii) was vacant on September 1, 1980 and was used within 3 years prior to such date for a use in such Use Groups; or
 - (2) is granted a use variance pursuant to the provisions of Sections 72-21 and 72-221; and
 - (i) on April 9, 1981 was used for a use listed in Section 15-58; or
 - (ii) was vacant on April 9 1981, and was used within three years prior to such date for a use in such Use Groups; or
- (b) If in Brooklyn Community Districts 1, 2 and 6 and Queens Community Districts 1 and 2

- (1) is located in a zoning district in which *residential use* is permitted; and
 - (i) on April 1, 1984 was used for a *use* listed in Section 15-58; or
 - (ii) was vacant on April 1, 1984 and was used within 3 years prior to such date for a *use* in such Use Groups; or
- (2) is granted a *use* variance pursuant to the provisions of Sections 72-21 and 72-221; and
 - (i) on October 25, 1984 was used for a *use* listed in Section 15-58; or
 - (ii) was vacant on October 25, 1984, and was used within 3 years prior to such date for a *use* in such Use Groups.

However, any *floor area* consisting of Interim Multiple Dwellings shall be exempt from the Relocation Incentive Program. A *building* consisting entirely of Interim Multiple Dwellings shall not be an *applicable building*.

Conversion Contribution

A "conversion contribution" is the contribution to the Industrial Relocation Fund provided by the owner of an *applicable building*. Such contribution shall be provided by the owner in order to convert such *building* to *dwelling units* or *joint living-work quarters for artists* without meeting the requirements for the *development of dwelling units* in Article II (Residence District Regulations).

The Corporation

The "Corporation" is the New York City Business Relocation Assistance Corporation, a not-for-profit Corporation. The Board of Directors of the Corporation shall consist of the Commissioner or Executive Director of the ~~Office of Economic Development~~ Department of Business Services, the Chairman of the City Planning Commission, the Chairman of the Board of Standards and Appeals, the Commissioner of the Department of ~~Housing Preservation and Development~~ Employment, the President of the New York City ~~Public Development Corporation~~ Economic Development Corporation, three representatives appointed by the Speaker of the City Council, and two representatives appointed by the Mayor.

Eligible Tenant

An "eligible tenant" is a commercial or manufacturing tenant, or commercial or manufacturing owner occupant, determined by the *Corporation* to be engaged in a business listed in Section 15-58 and who:

- (i) occupied and used space within an *applicable building* for not less than 24 months immediately prior to vacating,
- (ii) vacated the premises on or after April 9, 1981 in Manhattan Community Districts 1, 2, 3, 4, 5 and 6 or on or after October 25, 1984 in Brooklyn Community Districts 1, 2 and 6 and Queens Community Districts 1 and 2, and

(iii) either purchased, or leased for a term of not less than 24 months, other premises within the City of New York for the purpose of engaging in a business listed in Section 15-58.

A sub-tenant shall be eligible to receive a relocation incentive in accordance with the provisions of Section 15-50 et seq. notwithstanding any lack of eligibility of its prime tenant.

The Fund

The "Fund" is the Industrial Relocation Fund. The *Fund* is established within the *Corporation*. The *Corporation* shall accept the *conversion contribution* to be accredited to the *Fund* and apply such monies toward the relocation of industrial tenants, including any verification action required under the provisions of Section 15-50 et seq. (Relocation Incentive Program), or toward the administration of the *Fund*, and for such other purposes relating to industrial retention and relocation as the *Corporation* may determine.

The Industrial Relocation Fund will be administered by the *Corporation*.

15-521

Rules and regulations for the Fund

The *Corporation* shall promulgate rules and regulations for the distribution of monies from the *Fund*. The *Corporation* shall provide a copy of all proposed rules and regulations and any proposed amendments thereto to:

- (a) Manhattan Community Boards 1 through 6, Brooklyn Community Boards 1, 2 and 6, and Queens Community Boards 1 and 2;
- (b) the City Planning Commission;
- (c) ~~the Office of Economic Development~~ Department of Business Services;
- (d) the Board of Standards and Appeals;
- (e) the Speaker of the City Council and the Council's Land Use and Economic Development Committee Chairpersons;
- (f) the *Industrial Loft Advisory Council*;
- (g) the Comptroller; and
- (h) the Borough Presidents.

In addition, the *Corporation* shall publish notice of the existence of proposed rules and regulations and any proposed amendments thereto for five business days in a newspaper of general circulation in the City of New York, and shall make all such proposed rules, regulations and amendments available to the public. Comments on such proposed rules, regulations and amendments shall be accepted for 30 days thereafter. The rules and regulations, or amendments thereto, as adopted, shall be provided to all persons listed in subdivisions (a) through (h) above, and shall be made available to the general public.

15-522

Administration of the Fund

The *Corporation* shall issue a report at the close of each fiscal year detailing the outreach that was made to industrial firms in affected areas to explain the Relocation Incentive Program and the entitlements that are available to eligible commercial and manufacturing firms under the program. The yearly report shall also include the amounts of, and plans to utilize in the upcoming year, any unobligated monies in the Industrial Relocation Fund. The *Corporation's* yearly report for the preceding fiscal year shall include the amount of all administrative costs and management fees paid for with monies from the *Fund* and the method by which they were calculated, the amount and source of each contribution to the *Fund*, and the amount of each grant or loan from the *Fund* and the identity of each recipient of a grant or loan. Management fees and administrative costs paid for with monies from the *Fund* shall not exceed \$550,000 in calendar year 1991. The yearly report shall be provided to all persons listed in subdivisions (a) through (h) in Section 15-521 above.

The *Corporation* shall administer the *Fund* in a manner designed to ensure that monies are spent in a timely manner, and that surpluses in excess of short-term liabilities and prudent reserves are minimized.

15-53

Conversion Contribution

15-531

Rate of contribution

The *conversion contribution* shall be paid into the *Fund*. If tendered prior to September 1, 1990, such contribution shall be at the rate of \$11.80 per square foot of the gross floor area to be used for *dwelling units* or *joint living-work quarters for artists* and stairwells, elevator shafts, halls and other common floor areas of the building used in conjunction with such *dwelling units* or *Joint living-work quarters for artists*, excluding ground floor lobbies, less any discount authorized under the provisions of Section 15-54 (Direct Help) or Section 15-55 (Additional Discounts or Exclusions from Conversion Contributions).

However, in Brooklyn Community Districts 1, 2 and 6 and Queens Community Districts 1 and 2, in *Residential Districts* or in *Commercial Districts* permitting residential use, if tendered prior to September 1, 1990, the *conversion contribution* shall be at the rate of \$5.90 per square foot.

On each subsequent September 1, the *Corporation* shall establish the monetary rate at which the *conversion contribution* is to be paid during that year. Said rate change shall be based on the Gross National Product Implicit Price Deflators for the Trucking and Warehousing Industry, prepared by the U.S. Department of Commerce.

15-532

Contribution procedure

- (a) Prior to the issuance of an Alteration Permit, the owner shall pay the *conversion contribution* in an amount equal to the rate applicable at the date of payment multiplied by the gross *floor area* as provided in Section 15-531. The amount of such contribution may be reduced by authorization of the Board of Standards and Appeals pursuant to Section 15-54 (Direct Help) or Section 15-55 (Additional Discounts or Exclusions from Conversion Contributions). Nothing in this Section shall be construed to require such owner to pay the *conversion contribution* in accordance with the provisions of this Section more than once on any particular *floor area*. Upon proof of payment of the *conversion contribution* by the owner, or upon receipt of an authorization exclusion, pursuant to Section 15-551 (Existing conversion) or Section 15-554 (Exclusion for certain vacated space), the Board shall notify the Department of Buildings that the requirements of Section 15-50 et seq. have been met.
- (b) The *conversion contribution* shall be paid into the *Fund* primarily for the benefit of the commercial or manufacturing tenant who last occupied the *floor area* to be converted and subsequently relocated within the City of New York. Within twelve months of the payment of the *conversion contribution*, and upon verification by the *Corporation* that said tenant is an *eligible tenant*, the *Corporation* shall pay to said tenant the appropriate portion of the *conversion contribution*. The appropriate portion of the *conversion contribution* shall be equal to the amount produced by multiplying the rate of *conversion contribution* applicable at the time of payment of the *conversion contribution* by either the *floor area* occupied by such tenant prior to relocation or the *floor area* occupied by such tenant after relocation, whichever is less; however, if the *Corporation* finds that after relocation the *eligible tenant* is maintaining substantially the same employment and business operations in a smaller space, it may award such *eligible tenant* the full amount based upon the *floor area* occupied by such tenant prior to relocation.

An *eligible tenant* may petition the *Corporation* for additional funds, to be paid out of the *Fund*, for reasonable moving or relocation expenses in excess of the amount to which such *eligible tenant* is entitled. The *Corporation* may consider such petitions at its discretion.

The *Corporation* shall determine whether a commercial or manufacturing tenant is an *eligible tenant* within 15 days after a request by said tenant, and, in appropriate cases, verify the eligibility of said tenant. Where a commercial or manufacturing tenant is not an *eligible tenant*, the *Fund* shall retain the *conversion contribution*. Where an *eligible tenant* does not seek verification of eligibility within twelve months of the payment of the *conversion contribution*, such tenant shall be ineligible to receive any payment or assistance from the *Corporation*.

Notwithstanding the above, where the *eligible tenant* has received assistance from the *Corporation*, the amount of such assistance will be subtracted from the amount to which said tenant is eligible under this Section, and the remainder shall be retained by the *Corporation*.

15-54

Direct Help

The Board of Standards and Appeals shall issue an authorization for a discount from all or part of the amount of the *conversion contribution* when it determines that the owner of an *applicable building* has made a direct help payment in accordance with Section 15-541 through Section 15-546. The amount of the discount shall be twice the direct help payment provided to the recipients as required in Section 15-541.

The owner of an *applicable building* shall include a copy of each escrow agreement signed pursuant to Section 15-542 with the application to the Board for the authorization for a direct help discount. The owner of an *applicable building* applying for a direct help discount shall, on the date of such application, provide the ~~Office for Economic Development~~ Department of Business Services with a copy of said application. Within 30 days of the receipt of any such application, the ~~Office for Economic Development~~ Department of Business Services may provide the Board of Standards and Appeals with a report on the history of commercial and manufacturing tenancy of such *building*.

15-541

Amount of direct help payment

- (a) The direct help payment shall be equal to 50 percent of the *conversion contribution*. To entitle the owner of an *applicable building* to be eligible for the discount authorized under the provisions of Section 15-54, such owner shall make direct help payments in accordance with the following:

Condition of the Space To Be Converted	Recipient of the Direct Help Payment	% of Conversion Contribution Each Recipient Receives
Vacant more than 24 consecutive months	The Corp	50%
Occupied by an <i>eligible tenant</i> listed in Section 15-581	The Tenant	50%
Occupied by an <i>eligible tenant</i> listed in Section 15-582	The Tenant The Corp	25% 25%
Occupied by a commercial or manufacturing tenant for more than 24 months but such tenant did not relocate within New York City	The Corp	50%
Occupied by commercial or manufacturing use not listed in Section 15-58 for more than 24 months	The Corp	50%

(b) Direct Help Payments When Tenant Relocates to a Smaller Space

An *eligible tenant* shall receive a direct help payment of 50 percent of the amount produced by multiplying the currently applicable rate of *conversion contribution* by the *floor area* occupied by such tenant after relocation. If, as a result of such tenant relocating to a smaller space, the amount of direct help payment provided by an owner to an *eligible tenant* is less than the amount of the direct help payment the owner is required to provide pursuant to the provisions of Section 15-541(a), the remainder shall be paid to the *Corporation*. The *Corporation* shall determine if there has been relocation to a smaller space.

Notwithstanding the above paragraph, if the *Corporation* determines that the *eligible tenant*, after relocation, is maintaining substantially the same employment and business operations in a smaller space, the *Corporation* may award such *eligible tenant* the full amount of the *direct help payment* to which it would be entitled had it relocated to a space with the same amount of *floor area* from which it relocated. The owner shall be entitled to a discount for all such direct help payments.

15-542

Establishment of escrow accounts

To receive a discount under the provisions of Section 15-54 (Direct Help), the owner of an *applicable building* shall establish an escrow account in accordance with the provisions established in this Section.

- (a) Such owner shall deposit a sum of money equal to the amount of the direct help payment required under Section 15-541 in an escrow account in a banking institution located in the City of New York. The escrow agent shall be such bank or the owner's attorney. The escrow account shall be established pursuant to an agreement signed by the owner and the escrow agent, which agreement shall be on a form provided by the *Corporation*. Where the commercial or manufacturing tenant is listed in Section 15-581, said escrow agreement shall contain the specific provisions in subsection (i) below; where the commercial or manufacturing tenant is listed in Section 15-582, said escrow agreement shall contain the specific provisions listed in subsection (ii) below:

- (i) The escrow property delivered hereunder shall be held in escrow by (the escrow agent) to be delivered to (the tenant) at such time as the New York City Business Relocation Assistance Corporation, hereinafter called the *Corporation*, has verified that (the tenant) is an *eligible tenant* under the terms of Section 15-50 et seq. of the Zoning Resolution of the City of New York. This escrow property shall be paid in full to (the tenant) within 15 days of such verification, unless the *Corporation* has made a determination that (the tenant) has relocated to a smaller space in accordance with the provisions of Section 15-541(b) of the Zoning Resolution. Where the *Corporation* has determined that (the tenant) has relocated to a smaller space, (the tenant) shall receive payment from the escrow account in an amount equal to that required by Section 15-541(b) of the Zoning Resolution within 15 days of such verification. The remainder of the escrow property shall be paid to the *Corporation* at the same time. In the event that the *Corporation* issues a statement of non-eligibility under Section 15-544(c) of the Zoning Resolution, this escrow property will be paid to the *Corporation* within 15 days of the issuance of such statement. In the event that these conditions are not met within twelve months from the earlier to occur of the date (the tenant) vacates space in (address of the building) or the date of the establishment of this escrow account, (the escrow agent) shall pay the escrow property delivered hereunder to the *Corporation* at the expiration of said twelve-month period.

Notwithstanding the foregoing, where the *Corporation* notifies (the escrow agent) that (the owner) and (the tenant) have entered into a new lease of the premises at (address of the building) for a term of more than three months, the escrow property delivered hereunder shall be returned to (the owner/escrowor) within 15 days of such notification.

- (ii) The escrow property delivered hereunder shall be held in escrow by (the escrow agent) until such time as the New York City Business Relocation Assistance Corporation, hereinafter called the *Corporation*, has verified that (the tenant) is an *eligible tenant* under the terms of Section 15-50 et seq. of the Zoning Resolution of the City of New York. Within 15 days of such verification, (the escrow agent) shall pay 50 percent of the escrow property here under to (the tenant) and 50 percent of the escrow property to the *Corporation*, unless the *Corporation* has made a determination of relocation to a smaller space in accordance with the provisions of Section 15-541(b) of the Zoning Resolution. Where the *Corporation* has determined that (the tenant) has relocated to a smaller space, (the tenant) shall receive payment from the escrow account in an amount equal to that required by Section 15-541(b) of the Zoning Resolution, within 15 days of such verification. The remainder of the escrow property shall be paid to the *Corporation* at the same time. In the event that the *Corporation* issues a statement of non-eligibility under Section 15-544(c) of the Zoning Resolution, this escrow property will be paid to the *Corporation* within 15 days of the issuance of such statement.

In the event that the above conditions are not met within twelve months from the earlier to occur of the date (the tenant) vacates space in (address of the building) or the date of the establishment of this escrow account, (the escrow agent) shall pay the escrow property delivered hereunder to the *Corporation* at the expiration of said twelve-month period.

Notwithstanding the foregoing, where the *Corporation* notifies (the escrow agent) that (the owner) and (the tenant) have entered into a new lease of the premises at (address of the building) for a term of more than three months, the escrow property delivered hereunder shall be returned to the (owner/escrow) within 15 days of such notification.

- (b) All interest which accrues on the escrow account shall be paid to the owner who establishes such escrow account. Any expenses incurred in establishing such account shall be paid by said owner. A copy of all escrow agreements shall be delivered by said owner to the *Corporation*.
- (c) For the purposes of this Section only, an owner shall be deemed to include an agent of the owner or a contract vendee.

15-543

Time for establishment of escrow accounts

For the purpose of this Section only, an *eligible tenant* shall not be required to have purchased or leased other premises within the City of New York.

Escrow accounts shall be established on the dates provided in this Section. However, the escrow account shall not be established more than two months prior to the expiration of the tenant's lease, except by mutual consent of the owner and tenant.

(a) Lease Termination

In the event that an *eligible tenant* has a lease with a term of at least one year, and the owner of an *applicable building* notifies said *eligible tenant* that his tenancy will be terminated on the date said tenant's lease expires, or, if there has been no such notification by the owner and said tenant's lease has not been renewed, such owner shall establish the escrow account at least 30 days prior to the date of termination of tenancy.

(b) Holdover or Short-Term Lease

In the event that an *eligible tenant* has a lease of less than one year, or is a holdover tenant with no lease for the space in the *applicable building*, the owner of the *building* shall establish the escrow account not later than 90 days after said tenant notifies the owner of the date said tenant intends to vacate the premises, or 30 days prior to said tenant's date of termination of tenancy, whichever occurs later.

An owner of an *applicable building* shall notify the *eligible tenant* and the *Corporation* in writing of the establishment of the escrow account within 5 days of the establishment of such account. Such notice shall include a copy of the escrow agreement.

15-544

Payment of funds from escrow account

- (a) An *eligible tenant* shall receive its share of the direct help payment from the funds held in the escrow account pursuant to the provisions of Section 15-541 within 15 days of the date the *Corporation* verifies that such tenant is an *eligible tenant*.
- (b) If the *eligible tenant* fails to seek verification from the *Corporation* within twelve months after the earlier of the date such tenant vacates space in the *applicable building* or the date of the establishment of the escrow account, the escrow property shall be paid to the *Fund*. Such tenant shall then be ineligible to receive any relocation assistance in the form of a direct help payment. Notwithstanding the above, where there is a dispute as to payment of the escrow account to be resolved under the provisions of Section 15-545, and the expiration of the above twelve-month period has resulted in payment to the *Fund*, such tenant shall remain eligible to receive relocation payment from the *Corporation* in an amount equal to the direct help payment for which such tenant was eligible under Section 15-541.

- (c) In the event that a commercial or manufacturing tenant does not relocate in New York City, or for any reason is not an *eligible tenant*, the *Corporation* shall issue a statement of non-eligibility. Within 15 days, of the issuance of said statement, the *Fund* shall receive payment from the escrow account. The acceptance of the direct help payment by the *Corporation* shall not imply the authorization of the direct help payment credit by the Board of Standards and Appeals. Should such authorization be denied, any funds paid to the *Corporation* under this provision shall be considered part of the *conversion contribution*.

15-545

Disputed payments from escrow account

Any dispute in the computation of the amount of the direct help payment to each recipient in accordance with the provisions of Section 15-541 through 15-543, or as to the eligibility of a commercial or manufacturing tenant for relocation assistance, shall be resolved by the Board of Directors of the *Corporation* within six months.

15-546

Direct payment to the Corporation

An owner shall make the direct help payment to the *Corporation*, and shall not be required to establish an escrow account, in the following situations:

- (a) where the *floor area* to be converted has been vacant for more than 24 months prior to the filing for the authorization for the direct help payment discount under Section 15-541; or
- (b) where the owner applies to the Board of Standards and Appeals for an authorization for a discount for certain vacated space under Section 15-553; or
- (c) where the *floor area* was occupied by a use not listed in Section 15-58.

The acceptance of the direct help payment by the *Corporation* shall not imply the authorization of the direct help payment credit by the Board of Standards and Appeals. Should such authorization be denied, any funds paid to the *Corporation* under this provision shall be considered part of the *conversion contribution*.

15-55

Additional Discount or Exclusions from Conversion Contributions

A copy of any application under this Section shall be sent by the applicant to the ~~Office of Economic Development~~ **Department of Business Services** at the time of filing. The ~~Office of Economic Development~~ **Department of Business Services** may provide additional information to the Board.

Authorizations issued under this Section shall not expire during the existence of the Relocation Incentive Program.

15-551

Existing conversion

If the Board of Standards and Appeals determines that *floor area* was used as *dwelling units* or *joint living-work quarters for artists* other than Interim Multiple Dwellings exempt from the Relocation Incentive Program pursuant to Section 15-52:

- (a) In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, on September 1, 1980, the Board shall authorize that such *floor area* not be included in computing the *conversion contribution*, provided that a complete application for an authorization under this provision was filed with the Board of Standards and Appeals prior to September 1, 1983.
- (b) In Brooklyn Community Districts 1, 2 and 6 and Queens Community Districts 1 and 2, on April 1, 1984, the Board shall authorize that such *floor area* not be included in computing the *conversion contribution*, provided that a complete application for an authorization under this provision was filed with the Board of Standards and Appeals prior to September 1, 1985.

15-552

Non-Industrial related uses

The Board of Standards and Appeals shall issue an authorization that *floor area* used for a *use* not listed in Section 15-58 shall not be included in the computation of the *conversion contribution* provided that:

- (a) the Board determines that *uses* not listed in Section 15-58 occupied at least 50 percent of the *floor area* of the *building* on September 1, 1980, in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, or on April 1, 1984 in Brooklyn Community Districts 1, 2 and 6 and Queens Community Districts 1 and 2, and
- (b) such *floor area* was not vacant on September 1, 1980, in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, or on April 1, 1984 in Brooklyn Community Districts 1, 2 and 6 and Queens Community Districts 1 and 2.

For the purposes of this Section, common areas of the *building* shall not be included in the computation of the *floor area* occupied by such *uses*. The burden of proof is on the applicant to show that the requirements of this Section have been met.

15-553

Discount for certain vacated space

The Board of Standards and Appeals may authorize a discount from the *conversion contribution* in an amount equal to 50 percent of the *conversion contribution* where there is substantial evidence to support a finding that a commercial or manufacturing tenant engaged in a business listed in Section 15-58 and occupying *floor area* within an *applicable building* for at least 24 months immediately prior to an application under this Section had

- (a) vacated *floor area* in an *applicable building* more than 6 months prior to the expiration of said tenant's lease, and there is no evidence of harassment by the landlord or the landlord's agent; or

- (b) vacated *floor area* in an *applicable building* not earlier than 6 months prior to the expiration of said tenant's lease, and the owner can demonstrate that said tenant was offered a lease renewal or extension at fair market rental not less than 6 months prior to the expiration of said lease. Such renewal or extension shall have been for a period of at least 3 years unless the landlord notified said tenant in writing that:
- (i) such lease renewal or extension was an interim measure until the conversion of such *floor area*; and
 - (ii) at the termination of such interim renewal or extension said tenant would receive a direct help payment in accordance with the provisions of Section 15-54.

Where the Board issues an authorization under this Section, the direct help payment shall be made to the *Corporation*.

15-554

Exclusion for certain vacant space

Upon proof that *floor area* has been vacant for a minimum of 5 years immediately preceding the date of application for an exclusion under this Section, the Board of Standards and Appeals shall issue an authorization that no *conversion contribution* shall be required to be made for such *floor area*.

15-555

Discount for building permit issued before April 9, 1981

- (a) The Board of Standards and Appeals may authorize a discount from the *conversion contribution* in an amount equal to 50 percent of the *conversion contribution*, where the Board determines that there was substantial construction in accordance with the provisions of Section 15-013.
- (b) The Board of Standards and Appeals may authorize a reduction in the amount of the *conversion contribution* under paragraph (a) of this Section by an amount equal to any relocation payments provided by the developer, property owner, or contract vendee provided that the Board finds that:
 - (i) such tenant occupied the *floor area* being converted on September 1, 1980, and for not less than 24 months immediately prior to vacating;
 - (ii) such tenant relocated to other premises within the City of New York which such tenant either purchased, or leased for a term of not less than 24 months; and
 - (iii) such amount was paid to such tenant within 30 days after said relocation.

15-56

Verification of Relocation Requirements

Within 15 days after a request by a tenant, but in no event prior to the date of relocation, the *Corporation* shall determine whether a commercial or manufacturing tenant is an *eligible tenant* and, in appropriate cases, verify that relocation has occurred. The *Corporation* shall also determine whether there has been relocation to a smaller space under the provisions of Section 15-541(b). Notwithstanding the above, a commercial or manufacturing tenant may notify the *Corporation*, prior to relocation, of the date of relocation and the *Corporation* may agree with such tenant to determine whether such tenant is an *eligible tenant* on a specific date subsequent to the relocation.

15-57

Special Provisions

15-571

Vesting

Any *applicable building* which on or after January 1, 1991 has received an alteration permit, but which has not received a certificate of occupancy for *residential or joint living-work quarters for artists use* on March 21, 1991 shall be subject to the provisions of Sections 15-50 through 15-58.

15-572

Termination

The provisions of Sections 15-50 through 15-58 shall cease to have all force and effect on January 1, ~~1992~~ 1998, unless re-adopted by the City Planning Commission on or before such date. No later than September 1, ~~1991~~ 1996, the *Corporation* shall issue a report detailing the effectiveness of the Relocation Incentive Program in meeting the objectives stated in Section 15-51 during the period commencing July 1, 1990 and ending June 30, ~~1991~~ 1996.

15-573

Applicability

Where an *applicable building* is being converted, the provisions of Sections 15-50 through 15-58 (Relocation Incentive Program) shall apply in lieu of the relocation benefits authorized under subdivision 10 of Section 489 of the New York Real Property Tax Law.

15-58

Eligible Commercial and Manufacturing Uses

15-581

Group A

The following *uses* are included in Section 15-581. *Accessory uses* shall be considered part of such *use*. *Uses* which are encompassed within categories under more than one Use Group are included in Section 15-581 as long as one such category is included below:

In Use Group 9A:

- Blueprinting or photostating establishments
- Medical or dental laboratories

Printing establishments
Studios, art, music, dancing or theatrical

In Use Group 10A

Photographic or motion picture production studios, radio or television studios.

In Use Group 11A:

All uses

In Use Group 16A:

Blacksmith shops
Carpentry, custom woodworking or furniture making shops
Household or office equipment or machinery repair shops
Machinery rental or sales establishments
Mirror silvering or glass cutting shops
Silverplating shops
Soldering or welding shops
Tool, die or pattern-making establishments or similar small machine shops

In Use Group 16D:

Carpet cleaning establishments
Dry cleaning or cleaning and dyeing establishments
Laundries
Photographic developing or printing establishments

In Use Group 17A:

Produce or meat markets, wholesale

In Use Group 17B:

All uses

In Use Group 18A, only for the purposes of the Relocation Incentive Program:

All uses.

15-582

Group B

The following uses are included in Section 15-582. *Accessory uses* shall be considered part of such uses. Uses which are encompassed within categories under more than one Use Group are included in Section 15-582 as long as one such category is included below:

In Use Group 7B:

Exterminators
Gun repair
Sailmaking establishments
Taxidermists shops
Trade embalmers
Window cleaning contracting establishments

In Use Group 8B:

- Upholstering shops
- In Use Group 9A:
 - Musical instrument repair shops
 - Plumbing, heating or ventilating equipment showrooms
 - Typewriter or other small business machine sales, rental, or repairs
 - Umbrella repair shops
- In Use Group 9B:
 - Hair products for head wear wholesaling
- In Use Group 10A:
 - Depositories for storage of office records, etc.
- In Use Group 10B:
 - All uses
- In Use Group 11B:
 - All uses
- In Use Group 16A:
 - Electrical, glazing, heating, painting, paperhanging, plumbing, roofing, or ventilating contractors establishments
 - Poultry or rabbit killing establishments
 - Sign painting shops
- In Use Group 16D:
 - Linen, towel, or diaper supply establishments
 - Moving or storage offices
 - Packing or crating establishments
 - Warehouses
 - Wholesale establishments
- In Use Group 17A:
 - Building material and contractors yards
- In Use Group 17C:
 - Trucking terminals or motor freight stations
- In Use Group 18B, only for the purposes of the Relocation Incentive Program:
 - All uses.

(On September 23, 1991 Cal. No. 1, the Commission scheduled October 9, 1991 for a public hearing. On October 9, 1991, Cal. No. 18 the hearing was closed. On October 23, 1991 Cal. No. 28, the item was laid over.)

For consideration.

PROPOSED AMENDMENT:

(To the second full paragraph of § 15-51, following items a through d, new text in bold): "These funds will be used to provide industrial retention and relocation assistance in accordance with the intent of this Chapter, **provided however, that no funds shall be used to provide such assistance through any program that imposes geographic eligibility criteria on firms moving to sites located within the City of New York from any of the community districts listed in Section 15-52 (a) and/or (b) below.**"

For consideration.