

Commissioner Robert LiMandri
New York City Department of Buildings
280 Broadway, 7th floor
New York, NY 10007

March 3, 2009

Re: Draft Green Roof Tax Abatement Rules

Thank you for the opportunity to testify this morning. My name is Rob Crauderueff and I am here to testify on behalf of the Storm Water Infrastructure Matters (S.W.I.M.) coalition. S.W.I.M. is a coalition of more than 50 groups citywide dedicated to swimmable waterways in our neighborhoods through natural, sustainable storm water management strategies. We bring significant experience to green roofs, as our membership includes green roof installers, an economic development corporation that has issued financial incentives for more than 15 green roofs, engineers, and community and environmental groups that have installed green roofs. S.W.I.M. advocated for the passage of a green roof tax abatement last summer, and we are pleased that the City now has an opportunity to define rules for the tax abatement.

However, we testify with serious concerns over the proposed rules for the green roofs tax abatement, as presently drafted by the Department of Buildings. **Compliance with the rules as drafted would be extremely costly, and therefore would substantially reduce the actual value – and at times make cost prohibitive – the \$4.50/s.f. tax abatement for green roof construction in New York City.**

Our concerns are twofold: First, the application process is unnecessarily complicated and onerous; second, requirements for installation are not appropriate and very costly.

Big-picture concerns and recommendations:

The draft rules are not appropriate for a green roof tax abatement application. The rules do not include the necessary information to ensure a successful green roof project, are time consuming, and excessively costly. Moreover, the DoB's proposed alteration application requires the licensed architect or engineer to submit information that is not necessary for green roofs. Ultimately, as the attached analysis demonstrates, the green roof tax abatement would not be worthwhile for many qualified applicants, and be a fraction of the intended \$4.50/s.f.

Our assessment demonstrates that a cost-effective alternative application process is possible while protecting public welfare and safety. We suggest that the process for obtaining the tax abatement be streamlined. One way this could be accomplished is to provide an alternative, simple application for basic, "extensive" green roofs. This application quickly could be stamped for approval and transmitted to the Department of Finance, provided the form includes: a licensed engineer's certification that the building

can support the weight of a saturated green roof; and the certification of an engineer, architect or landscape architect, or green roof contractor that the green roof is designed to achieve 80% coverage, based on the expectation that the mass of the green roof plants will cover 80% of the green roof by the end of the 3-year maintenance requirement, and otherwise complies with the specifications. A maintenance agreement, executed by the owner, would be an attachment to the application.

Our specific concerns are as follows:

1. Property Tax Abatement Application (§ 105-01(f))

(a) The proposed requirement for 80% coverage is cost prohibitive based on each plant having a 4" diameter (2" radius). (§105-01(f)(2)(i)). In order to ensure that all plants are of sufficient size, a pre-vegetated mat or module would be necessary. Material costs for pre-vegetated mats and modules range from approximately \$4.50/s.f. to \$3.25 for a 1,000 s.f. to 25,000 s.f. green roof, respectively. Plants grown in 4" pots are not successful on green roofs, according to Emory Knoll Farms, the largest supplier of green roof plants in the Northeast. Moreover, pre-vegetated green roofs require one year to grow out in a nursery before installation. Therefore, the rules as written may result in delays of one year or more for green roofs to be installed.

Rather, we recommend that the green roofs be planted to cover 80% of the green roof area by the end of the 4-year maintenance period. These rules should permit 1" diameter plugs, which do not meet the draft rules' requirements, and would cost approximately \$1 to \$1.50/s.f. Cuttings provide similar coverage, in terms of plant mass, after three years,– at less than one-tenth the cost, around \$0.30/s.f.

We can see no good policy reason for requiring 80% coverage through installing 4" potted plants. If the city is convinced the state law allows no leeway (an unduly narrow interpretation with which we strongly disagree) then we urge the city to get the state legislature to fix this immediately.

(b) In addition, the rules' monthly maintenance requirement is excessive and not contextual to the specific conditions of each green roof. Alternatively, as is the practice in Philadelphia, the application could include a maintenance plan as executed by the owner (§105-01(f)(2)(ii)).

2. Procedure for the alteration application (§ 105-01(e))

The proposed process for submitting an alteration application is extremely burdensome and onerous, and can take several months for review and acceptance. Our concerns are as follows:

(a) The application requires a zoning diagram per height and setback regulations (§ 105-01(e)(1)(C)). This added step unnecessarily adds a cost for the licensed architect or engineer. A basic, extensive green roof does not add significantly to the height, bulk, or floor area of a building. Moreover, 2-6 inches of planting material would not exceed the height of the building. The height of the building is measured at roof slab; the vegetation

is not a structure, which is why a permit for work should not be necessary to install one. Therefore, for extensive green roofs, a zoning diagram should not be necessary.

(b) Under the draft rules, the engineer/architect must retain records for 6 years (§ 105-01(e)(2)). Unlike in other cities, which only require the tax credit applicant to retain records, this requirement increases liability for the structural engineer and therefore may increase the upfront cost of work. As is required in Chicago and Philadelphia, the applicant, rather than the architect, could be required to retain records of the project. In addition, the engineer is required submit calculations to the Department of buildings, which is not standard practice and may add an additional cost. We recommend that the structural engineer not be required to submit calculations on the application.

(c) The "Construction Sign-Off" requirement is strict, as the tax abatement is denied and the applicant is left with no further opportunity for review by the DoB if the permit and tax credit applications are not submitted together (§ 105-01(e)(2)). Moreover, it is unclear whether, if there is a mistake or error on the application, the applicant is allowed to correct it. We recommend that the rules specify that the applicant may re-submit an application and request for construction sign-off if a completed application and request for construction sign-off are not submitted together.

(d) Submission of details:

The architect or engineer may be familiar with the details of a project, but not need to submit the details. The process of submitting details may cost an additional \$500 or more for the architect to obtain and interpret the details. We recommend allowing the architect / engineer to sign off that the green roof meets building code standards for a green roof if he or she prefers not to submit details.

3. Compliance Period (§ 105-01(g))

This section requires that the applicant of record do a final inspection at the end of the compliance period. While we are supportive of this inspection in concept, the applicant of record may not be around after the year; technically, under the definition, the applicant of record is the arch/engineer who filed the original application for an alteration permit with the DOB. There should a provision in the rules that allows a replacement licensed architect or engineer to step in to complete this inspection report should the original person not be reachable.

4. Additional Concerns

Cost of submission: Based on interviews with certified architects, we understand the cost of a typical alteration application may be several hundreds of dollars, if not more. Rather, a reasonable cost of submission would be significantly lower – on the order of \$75 to \$100, such as the cost to submit a revocable consent to the NYC Department of Transportation.

Again, we strongly urge the City to modify the rules so that they are easy, cost-effective, and eco-friendly. Thank you again for your consideration. Please contact me at 646-400-5428 with any questions.