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Op-ed: Local Law 97 offers 'pathways' to green affordable housing

By Esther Toporovsky

Esther Toporovsky is the president of HP Sustainability Solutions, a unit of the NYC Housing Partnership.

Meeting New York State and City climate goals is imperative for owners of affordable multifamily housing. Deadlines loom for compliance with Local Law 97 and Climate Leadership and Community Protection Act mandates, with severe financial penalties for non-compliance.

While both market rate and affordable multifamily buildings larger than 25,000 square feet must comply with Local Law 97 by deadlines beginning next year, the costs of compliance will especially impact owners and developers of affordable housing who face a constant challenge of running and maintaining their buildings on very tight margins.

Pathway 1: Earliest compliance prescriptive list

Rather than strict carbon emissions caps and penalties, affordable housing in this pathway must complete a prescriptive list of carbon savings measures. Or, the housing must be under the 2030-2034 carbon emissions limits by 2024. These measures are designed to be completed between major building renovation cycles and are focused on maximizing the efficiency of existing heating and domestic hot water equipment rather than replacing equipment.

To qualify properties must have greater than 35% of units that are either rent stabilized or rent regulated, including rent stabilizations through regulatory agreement (with the Department of Housing Preservation and Development, Homes and Community Renewal or the Housing Development Corp.), the Rent Stabilization Law of 1969 or the Emergency Tenant Protection Act of 1974. Most of the city's affordable housing will fall into this category, especially if financed through HPD.

Pathway 2: Slightly delayed compliance

This category of housing offers the least flexibility of the three pathways and will be required to meet standard emissions limits and penalties. Compliance is delayed two years, beginning in 2026 rather than 2024.

This pathway has the same criteria as Pathway 1, but for properties where less than 35% of units are rent regulated. It is intended for properties with a majority of market rate units, often in buildings with units that have transitioned from rent regulated to market rate.

Pathway 3: Most delayed compliance

These projects have much more time to comply with LL97—until 2035 instead of 2024—but they must meet the emissions limits or face penalties consistent with the general inventory of multifamily buildings in the city.

Mitchell-Lama projects not participating in Housing and Urban Development programs are in this pathway, as are city Low Income Housing Tax Credit properties financed through HCR and with no HPD financing or rent stabilization requirement, and those not fitting into any previous category. Mitchell-Lama properties with any HUD units fall into Pathway 1.

In addition, it's important for owners and developers of affordable multifamily buildings to be aware of an array of grants, loans and subsidies that can offset the costs of LL97 compliance, including many available under the Inflation Reduction Act, which nearly doubled the Solar Investment Tax credit to 50% for regulated affordable housing.

Also, housing agencies in New York offer incentives to meet climate goals through funding for high-performance, all-electric projects. HCR announced the Clean Energy Initiatives, and HPD just announced its Future Housing Initiative involving subsidies that can be combined with other funding and subsidy programs offered by the state and city.

Delay in LL97 compliance can be very costly to multifamily building owners, in financial penalties for missing deadlines as well as in lost opportunities to obtain grants and other incentives designed to offset the costs of required building decarbonization upgrades. Some of these programs expire soon.