

Housing's Reverse Robin Hood Tax Break

One of New York City's biggest housing programs is a tax expenditure that goes by the name of "J-51."

The cryptic name may be helping to keep the program obscure, but it deserves more attention. It is one of the city's most expensive housing programs, amounting to \$256.6 million in tax expenditures for 2011. The purpose of the program is to give owners an incentive to improve the quality of apartments.

The J-51 tax benefit consists of two parts. First, owners who make eligible improvements to existing buildings receive *exemptions*, which are reductions in the amount of assessed value subject to property tax. Second, eligible owners receive *abatements*, which are direct reductions in the amount of property tax owed.

Changed Program

A study released this month by the Community Service Society (CSS) has found that over a ten-year span (2001 to 2011) the program grew in cost by nearly 50 percent (18 percent after inflation) while the number of apartments improved under the program increased by only seven percent. The program also changed drastically in form. Most of the benefit used to take the form of tax abatements that repay landlords for their expenses in improving apartments, but now takes the form of a tax exemption on the increased value of apartments after improvement.

While the number of apartments improved has hardly increased and the extent of the improvement per apartment has stagnated, the amount of property value exempt from taxes has gone through the roof. A growing share of the exemptions has gone to Upper Manhattan as the high-end real estate market boomed there. The program may in fact be subsidizing gentrification and displacement.

Those are among the findings of a recent CSS Policy Brief entitled *Upgrading Private Property at Public Expense – The Rising Cost of J-51*. The report, which was undertaken to measure J-51's worth as a catalyst for stimulating improvements to city apartments, argues for either drastically altering or replacing J-51 with a far more targeted incentive that focuses improvements on units that benefit low-income tenants.

Tax Break for Wealthy

As it is now, J-51 is helping to subsidize high-end, luxury apartments in places like Harlem and Bedford Stuyvesant that are obscenely unaffordable for the low and moderate-income New Yorkers. It's a tax break that is supposed to benefit low-income tenants. Instead, it's become a tax break for the wealthy. It's time to overhaul J-51 so that eligible property owners who receive tax exemptions and abatements are actually making improvements to affordable housing stock that otherwise would not occur.

The J-51 program is authorized by a state law which expired at the end of last year, and a battle over extending it is now taking shape in the Legislature. This gives us a chance to overhaul the program so that more of the benefit reaches low-income tenants instead of landlords.

J-51's \$257 million price tag is far more than the amount that the city spends from its own funds on Mayor Bloomberg's New Housing Marketplace Plan. In fact, the only more expensive housing programs in New York City are the ones that the federal government pays for – such as public housing and Section 8 vouchers – and the 421a tax expenditure for new housing construction.

The city created the J-51 program at the end of 1955 to provide “decent living quarters for those who are unfortunate enough to be obliged to live in substandard tenement houses built many years ago and lacking the ordinary decencies and comforts of modern dwellings,” as Mayor Robert Wagner put it.

In its early years, J-51 helped encourage the addition of hot running water to coldwater flats. Then, during the 1970s, it was reconfigured to encourage the conversion of commercial buildings and lofts to residential use, and the city also began encouraging landlords to use J-51 as part of its anti-abandonment efforts. Today, benefits are flowing to 709,000 apartments – 23 percent of the city's total housing stock.

It is certain that some of those apartments fit Mayor Wagner's conception of the purpose of J-51. Some of them are affordable housing developments with other government subsidies and rules restricting tenants' incomes. But others are anything but affordable. Almost a third of J-51 benefits go to condo and coop owners.

It is time to rethink J-51 and direct a far larger share of the expenditure to improvements that benefit low-income tenants and that would not be undertaken without the incentive. We could start by eliminating benefits for coops and condos (except those being developed with government assistance) and replacing the out-of-control exemption benefit with an enhanced abatement, which would raise the minimum benefit for needed improvements while reducing the benefit for improvements that do the most to raise property values.

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From the New York Amsterdam News
June 21 – June 27, 2012