NYU Furman Center

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The Role of 421-a during a Decade of Market Rate and Affordable Housing Development

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This research does not represent the institutional views (if any) of NYU, NYU School of Law, or the Wagner Graduate School of Public Service.

Introduction

New York State law currently allows property tax relief for newly-built housing in New York City under the 421-a tax exemption program. The purpose of 421-a, first created in the 1970s and known in its most recent iteration as "Affordable New York,"[1] is to encourage new housing construction by alleviating property taxes on the added value that comes with new development. The program is extensive. We find that more than 4,400 properties, including some 172,000 units, were newly built under the program during the last decade. Affordable New York will sunset in June 2022, and its future has been a source of much public debate. Most recently, in her 2022 State of the State briefing book, Governor Kathy Hochul outlined broad parameters to end the program and replace it with a tax exemption similarly focused on incentivizing rental housing development, but including deeper affordability requirements, longer affordability terms for income-restricted units,

1. In this brief we use 421-a as a noun to describe the programmatic allowances of this law: SECTION 421-A, *Affordable New York Housing Program*, Real Property Tax (RPT) CHAPTER 50-A, ARTICLE 4, TITLE 2; we use "Affordable New York" to refer to the 421-a (16) program.

a new option for fully-affordable homeownership development, and carbon-neutral and electrification requirements.[2] As the future of 421-a is debated this spring, its utility and impact will likely continue to be a subject of scrutiny.

The current version of 421-a, Affordable New York, was designed to accomplish a series of policy goals. Similar to prior versions of the program, it focuses on incentivizing new multifamily rental development. However, it also incorporates key changes: requiring all 421-a projects to include affordable units, increasing the share of affordable units in new 421-a rental projects, and limiting the use of the program for homeownership. Proponents of Affordable New York argue that the program makes it possible to leverage the private capital needed to build rental housing in high-tax New York City, that the program helps economically integrate high cost and amenity-rich neighborhoods, and that it creates prevailing-wage jobs for building service employees and sets higher construction wages for workers on large projects. At the same time, 421-a has long come under criticism for its long-term financial and opportunity cost, and these criticisms continue in its most recent form, Affordable New York. Affordable New York also expanded requirements for income-restricted units under the program, but it has drawn scrutiny for allowing developers to set many of those units at a level affordable to middle-income households (up to 130% AMI), rather than exclusively low-income households.

As the current program nears its sunset, public debate will revolve around two key questions: whether 421-a is necessary to overcome barriers to building new rental housing, and whether 421-a can be reformed to improve its efficacy as a low-income housing program. Much has changed since the most recent reform of 421-a, both politically[3] and economically: rent regulation laws have been tightened dramatically (including the adoption of the Housing Stability and Tenant Protection Act in 2019), the City has implemented the use of Mandatory Inclusionary Housing to support development of low-income housing without public subsidy, carbon reduction goals are more aggressive, and the pandemic's longer-term impact on the rental market is still unknown. All of these issues shape the benefits provided by 421-a and will bear on whether and how the program is renewed, replaced, or permanently ended.

In this brief, we do not take a position on the future of 421-a but rather take a close look at development under various versions of the program during the last decade. We also examine the housing stock created under the current iteration of the program, Affordable New York (focusing on rental development, and excluding the very limited use of the exemption for affordable co-ops and condos). In addition, we examine the take-up of 421-a, the geography of development, the types of units created with 421-a according to affordability and number of bedrooms, and other metrics for the program. A key challenge in developing this brief has been to combine the different (and sometimes inconsistent) data on properties that have and continue to benefit from 421-a. (See appendix for the steps taken and the assumptions made to create the database.) It is our hope that this brief provides useful information for policymakers, stakeholders, and advocates as they consider the future of the program.

2. Hochul, Kathy. *New York State of the State: 2022*. https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf

3. Politically, there is a far different makeup of elected officials in the New York State legislature, as well as a different governor and mayor.

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Key Takeaways

In our analysis of properties built under the 421-a program, we find the following:

421-a between 2010–2020 (a period with various sub-programs):

- The majority of multifamily units completed between 2010 and 2020 were built using a 421-a exemption. In residential properties of four or more units, 68 percent of units were built with 421-a, 21 percent used a separate program that provided property tax relief, and the remaining 10 percent may not have used any form of property tax relief.
- While the number of units completing construction peaked in 2018, there remains a substantial pipeline of units that have been permitted but not yet completed. We do not yet know what proportion of these properties will use 421-a.
- Among completed projects, the number of units built using 421-a peaked in 2017. There appears to have been a decline in the number of newly-built 421-a units during 2020, but this may be due to delays in data reporting, making it difficult to determine very recent developer choices.
- The overall distribution of new buildings that have used 421-a, by property size, remained fairly similar during the transition to Affordable New York.
- In terms of geography, 421-a units made up a large share of newly completed units across much of the city, particularly in Ridgewood/Maspeth (Queens), Astoria (Queens), and Hillcrest/Fresh Meadows (Queens).
- Between 2010 and 2020, the share of condominium properties using 421-a dropped from 97 percent to 13 percent in concert with changes in the law.
- Over the last five years, the rents of advertised affordable units in buildings using 421-a have shifted from being affordable to low-income to being affordable to middle-income households, although the overall count of income-restricted units increased.

Affordable New York, 2016–2021 (421-a (16), rental program only):

- Approximately 13,700 units have been completed under Affordable New York, with the highest annual number of units produced in 2018 (about 4,000 units). Just over a fifth of units built under Affordable New York were in properties with 25 or fewer units.
- The neighborhoods with the highest share of new units using the Affordable New York tax exemption were East Flatbush (Brooklyn), Clinton/Chelsea (Manhattan), and Hillcrest/Fresh Meadows (Queens).
- Under Affordable New York, a majority of advertised income-restricted units were set at middle-income rents of 130 percent of AMI.
- While half of rent-regulated studios advertised on Housing Connect under Affordable New York were targeted to low-, very low-, or extremely low- income households, only a quarter of advertised two-bedroom units were affordable for those households.

Active 421-a Property Tax Expenditures:

- Based on properties with an obligated 421-a exemption, the annual tax expenditure is projected to remain fairly constant until 2030, as older versions of the program gradually phase out.

Background

The 421-a program

The 421-a tax exemption program was created in 1971[4] to attract private capital to a stagnant residential market in New York City. The purpose was to limit increases in property taxes levied on new buildings (the tax increase attributed to the improvement), thereby encouraging new housing development. Under the current version of the program, the exemption covers up to three years of construction and a set period of time after a project is completed, phasing out in later years. The exemption schedules are set by state law, with the New York City Department of Housing Preservation and Development responsible for determining project eligibility and the New York City Department of Finance administering the exemption.

Over the past 50 years, lawmakers have made significant changes to 421-a. The earliest version of the program focused solely on promoting market rate development. In the 1980s, lawmakers added a requirement that projects in designated areas of Manhattan (the "Geographic Exclusion Area," or GEA) include affordable units or, for a time, purchase certificates that would provide funding dedicated to the development of off-site affordable units. Later changes to the program extended the GEA to parts of the outer boroughs.[5] Units built under the program have been subject to the rent stabilization law, and since 2007, New York State lawmakers required that newly-built 421-a rentals be rent stabilized for 35-years after construction, regardless of the 421-a term; at the end of that period, the unit would continue to be rent stabilized until the current tenant left the unit. Until the latest law change, market rate units were required to be rent stabilized until the first turnover in tenancy after the exemption term, even if legal rents were so high as to not be relevant.[6, 7]

Recent changes to 421-a

The legislation authorizing 421-a has never been made permanent and renewals have often involved tweaks to the program in tandem with negotiations over extensions of rent regulation laws. Most recently, when 421-a was set to expire in June of 2015, the Legislature extended it to the end of the year under the condition that further extensions would require an agreement on construction wages between real estate developers and construction labor unions.[8 9] When the two parties failed to do so, the program expired. It was revived again when an agreement was finalized in late 2016.[10]

4. SECTION 421-A, Affordable New York Housing Program, Real Property Tax (RPT) CHAPTER 50-A, ARTICLE 4, TITLE 2, https://www.nysenate.gov/legislation/laws/RPT/421-A

5. Eric Stern, Mark Willis, and Josiah Madar. *The Latest Legislative Reform of the 421-a Tax Exemption: A Look at Possible Outcomes*. NYU Furman Center (Nov. 2015). https://furmancenter.org/files/NYUFurmanCenter_421aOutcomesReport_9Nov2015.pdf

6. Kenneth Lowenstein, *Section 421-a and New York City's New Rent Law*. Holland & Knight (July 8, 2019). https://www.hklaw.com/en/insights/publications/2019/07/section-a-and-new-york-citys-new-rent-law

7. Prior to HSTPA, landlords could provide lower, preferential rents to rent stabilized tenants, meaning that the annual allowable regulated rent increases (per the Rent Guidelines Board) were not always binding for market rate tenants in the way that they were for tenants in income-restricted 421-a units.

8. Eric Stern, Mark Willis, and Josiah Madar. *The Latest Legislative Reform of the 421-a Tax Exemption: A Look at Possible Outcomes*. NYU Furman Center (Nov. 2015). https://furmancenter.org/files/NYUFurmanCenter_421aOutcomesReport_9Nov2015.pdf

9. Under the program, property owners are required to rent at least 20 percent of units to households earning up to 100 percent of AMI and 5 percent of units to households earning up to 130 percent of AMI. Once the program expires, existing tenants will continue to benefit from rent-stabilization protections. When existing tenants leave, the units will become market rate.

10. Mitchell Korbey, *421-a Stalemate Over: Agreement Between REBNY and BCTC Paves Way to Reinstatement of Program*. Herrick (n.d.). https://www.herrick.com/publications/421-a-stalemate-over-agreement-between-rebny-and-bctc-paves-way-to-reinstatement-of-program/

421-a is often discussed as a monolithic program, but in actuality it consists of a number of components that vary across geographies and by depth of affordability. Properties that use 421-a could be using one of up to three sub-programs (including seven options for the sub-program known as Affordable New York, see Table 1).

For example, two 421-a programs currently exist for projects that started construction before the aforementioned agreement was reached. The first, the 421-a (1-15) program extended the "old" (prior) version of the program by grandfathering projects that started construction before December 31, 2015 and completed construction by

TABLE 1: Affordable New York Program Options*

Option:	Size/geography restrictions for eligible properties	Exemption period (after construction)	Share of units at affordability levels (at least): 40% AMI	60% AMI	70% AMI	120% AMI	130% AMI	Additional restrictions
A		35 years	10%	10%			5%	No government subsidies are permitted (apart from proceeds from tax-exempt bonds and 4% tax credits).
B		35 years			10%		20%	
C	Not "located south of 96th Street in Manhattan or in any other area established by local law."	35 years					30%	No government subsidies are permitted.
D: Homeownership (Condos and Coops)	<=35 units and outside of Manhattan	20 years						The average assessed value for the project cannot exceed $65,000 per unit. The unit must be the purchaser's primary residence for the first five years.
E	>=300 units and inside EAA	35 years	10%	10%		5%		No government subsidies are permitted (apart from proceeds from tax-exempt bonds and 4% tax credits).
F	>=300 units and inside EAA	35 years			10%		20%	
G	>=300 units and inside Brooklyn or Queens EAA	35 years					30%	No government subsidies are permitted.

*Tax Credits and Incentives: 421-a. NYC Housing Preservation & Development, (n.d.). https://www1.nyc.gov/site/hpd/services-and-information/tax-incentives-421-a.page; *The developers guide to "Affordable Housing NY Program" AKA the 421-a tax exemption*. Nixon Peabody LLP, (2017). https://www.nixonpeabody.com/-/media/Files/Brochures/developers-guide-to-421-a-Affordable-Housing-NY-Program.ashx

December 31, 2019. Second, the Legislature created the 421-a (17) program in 2015, which extended benefits for buildings that began construction before July 1, 2008 and qualified for 20- and 25-year exemptions under the "old" version of 421-a. These properties are eligible for an additional 10 or 15 years of 50 percent property tax exemption in exchange for preserving existing affordable units, adding affordable units, and maintaining rent stabilization status.[11]

Affordable New York Program

More recently-built projects are only eligible for the current version of the 421-a program, the 421-a (16) "Affordable New York" program (referred to below as ANY). ANY can be used for new rental housing with more than five units that have started construction between January 1, 2016 and June 15, 2022, and are completed by June 15, 2026. Projects that started construction before 2016 and had not yet participated in 421-a could also opt into the program.[12] As previously discussed, 421-a was suspended at the beginning of 2016 because of a dispute regarding wage regulations on large developments, and a revised version was not put in place again until the spring of 2017, with retroactive coverage to January 1, 2016.[13]

ANY aimed to accomplish four central policy goals: to encourage new residential development, to require all 421-a rental projects to include affordable units, to increase the share of affordable units in 421-a rental projects, and to greatly diminish 421-a as an incentive for building new condominium projects.[14] Additionally, the City's Mandatory Inclusionary Housing (MIH) program, which was written into the zoning resolution in 2016, was also structured to work with 421-a.[15] To achieve these policy and program goals, policymakers designed 421-a (16) with seven options, outlined in Table 1 above, with different term lengths and affordability levels based on the size, funding source, and location of the building.

ANY differs from its predecessors in a number of ways: the shares and AMI levels of affordable units in projects were increased on average (although most of the affordable requirements for Options A and E are no higher than those under the prior versions of the program). In addition, the exemption schedule was extended to 35-years (for rental buildings) with a schedule of either a full exemption for 35-years, or phasing down to the share of affordable units in years 26 to 35, depending on the option. ANY also scrapped the GEA, and instead established "enhanced affordability" areas

11. *Tax Credits and Incentives: 421-a*. NYC Housing Preservation & Development (n.d.). https://www1.nyc.gov/site/hpd/services-and-information/tax-incentives-421-a.page

12. Tax Credits and Incentives: 421-a. NYC Housing Preservation & Development (n.d.). https://www1.nyc.gov/site/hpd/services-and-information/tax-incentives-421-a.page

13. Jarrett Murphy, *UrbaNerd: Understanding the latest changes to 421-a*. City Limits (Apr. 10, 2017). https://citylimits.org/2017/04/10/urbanerd-understanding-the-latest-changes-to-421-a/

14. Eric Stern and Mark Willis, *The Latest Reform Proposal for the 421-a Program*. NYU Furman Center (Feb. 2017). https://furmancenter.org/files/NYUFurmanCenter_421aUpdate_8FEB2017.pdf

15. Developers that build properties subject to the mandatory inclusionary housing program (MIH) may also use 421-a. When doing so, they may count affordable units for both the MIH and 421-a programs, although they typically must lower the AMI levels of their income-restricted units under the 421-a AMI bands in order to comply with the MIH weighted-average AMI requirements. In addition, if a developer chooses to use 421-a, they would need to abide by the exemption's requirement to locate affordable units on the same lot as the exempt project (projects subject to MIH are otherwise allowed to place affordable units off-site). Similarly, developers that choose to make use of 421-a and the Voluntary Inclusionary Housing program (VIH) must meet the various requirements including setting affordable units for the density bonus under 80 percent AMI.

See the following: James Power and Patrick Sullivan, *Conforming the 421-a and MIH Programs*. Kramer Levin (Apr. 18, 2018). https://www.kramerlevin.com/en/perspectives-search/conforming-the-421-a-and-mih-programs.html; *Voluntary Inclusionary Housing*. New York City Department of Housing Preservation and Development. https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/vih-fact-sheet.pdf (referred to as EAA in Table 1) in Manhattan below 96th street, and within 1 mile of the water in Community Boards 1 and 2 of Brooklyn and Queens.[16] Other changes under ANY included the removal of a statutorily required fifty percent community preference,[17] and an increase in the minimum building size requirement from four to six units. Unlike the prior versions of the program, there is no longer a requirement that a site be underutilized for the full three years before the start of construction. However, the new building must include an affordable unit for every residential unit on the site at the time, ensuring that a new development is larger than the housing it replaces.[18]

Per the 2016 labor agreement, the statute includes provisions establishing average hourly wage minimums for construction workers in rental projects with more than 300 units.[19] The terms of rent stabilization also changed under ANY. Unlike previous versions of the program, market rate units that exceed the rent deregulation threshold ($2,816.38 in 2021)[20] at initial lease up or during the exemption term are not required to remain subject to rent stabilization (whereas the affordable units are required to be rent stabilized).[21]

Critiques of the program

The 421-a exemption has long come under criticism, including the concern that the exemption fails to provide sufficient public benefit given its cost. Some argue that the program simply is not necessary to promote new residential development given the strength of the current market, and that the exemption ends up inflating the cost of land, thereby increasing the cost of development for all builders. This argument is that in theory, landowners increase their prices to match the difference between the cost of construction and a competitive profit on new construction; by lowering property taxes on completed projects, the 421-a exemption allows landowners to increase their prices and capture some of the benefit of the 421-a exemption (although this is complicated by alternative uses that are feasible but not eligible for the 421-a benefit–for example, commercial properties, condominiums, or storage facilities do set a floor under land prices). Historically, the program also came under fire for allowing luxury condo developers to build affordable units off-site (in a less amenity rich location and/or with less building amenities, not allowed under the current version for 421-a), or even to build a separate entrance for affordable units in the same building as market rate units (such "poor doors" were prohibited shortly before the program expired).[22]

16. *The developers guide to "Affordable Housing NY Program"* AKA the 421-a tax exemption. Nixon Peabody LLP (2017). https://www.nixonpeabody.com/-/media/Files/Brochures/developers-guide-to-421-a-Affordable-Housing-NY-Program.ashx

17. David Colon. *Cuomo's New Affordable Housing Program Ditches Community Preferences*. Gothamist (July 26, 2017). https://gothamist.com/news/cuomos-new-affordable-housing-program-ditches-community-preferences

18. Leon Morabia, *421-a Property Tax Process Renewed*. CityLand (Mar. 7, 2018). https://www.citylandnyc.org/421-a-property-tax-process-renewed/

19. *Tax Credits and Incentives: 421-a*. NYC Housing Preservation & Development (n.d.). https://www1.nyc.gov/site/hpd/services-and-information/tax-incentives-421-a.page

20. *Notice of 421-a (16) Apartment Market Rate Threshold Exemption–2021*. State of New York Division of Housing and Community Renewal, Office of Rent Administration. https://hcr.ny.gov/system/files/documents/2021/06/mrte-n-2021-fillable.pdf#:~:text=The%20Market%20Rate%20Threshold%20for%202021%20in%20New%20York%20City%20is%20%242%2C816.38.&text=The%20last%20legal%20rent%20may,the%20tenant%20by%20contacting%20DHCR

21. Note that while the Housing Stability and Tenant Protection Act (HSTPA, passed in 2019) repealed the provisions of rent stabilization law related to high rent deregulation, legislators adjusted the law to allow high rent deregulation for 421-a units built under the new 421-a program. See: Kenneth Lowenstein, *Section 421-a and New York City's New Rent Law*. Holland & Knight (July 8, 2019). https://www.hklaw.com/en/insights/publications/2019/07/section-a-and-new-york-citys-new-rent-law.

22. Alexandra Swartz, *The "Poor Door" and the Glossy Reconfiguration of City Life*. The New Yorker (Jan. 22, 2016). https://www.newyorker.com/culture/cultural-comment/the-poor-door-and-the-glossy-reconfiguration-of-city-life

The current version of 421-a—Affordable New York—has garnered a new round of criticism, most notably for the number of affordable units and the shallower levels of affordability available to qualify for the program, particularly the options for households earning 130 percent of Area Median Income. The program's participants have also in some cases become the subjects of lawsuits alleging they improperly registered a higher rent than allowed by law.[23] Finally, with the program end date approaching, some have argued that the program should not be extended, and instead be allowed to sunset. Some detractors of 421-a contend that policymakers should instead focus on reforming New York City's complex and inequitable property tax system, and funding affordable housing through alternative programs that prioritize a greater depth of affordability.[24]

In this data brief, we do not evaluate the program or consider whether the critiques above are warranted. Neither do we offer recommendations for the policy going forward. Rather, we seek to provide foundational information on what the program has produced over the past decade, including the geography and affordability of new units.

23. Multiple lawsuits against owners of 421-a properties allege that, when opening a new building, the owners gave the new tenants rent concessions while registering a higher legal rent, thus allowing them to increase future rents from the higher amount. See: Erin Hudson, *Lawmakers vow to end 421a as tenants sue landlords getting tax break*. The Real Deal (Jan. 27, 2021). https://therealdeal.com/2021/01/27/lawmakers-vow-to-end-421a-as-activists-sue-landlords-getting-tax-break/

24. See, for example: Brad Lander, *Let's use, not waste, $1.7 billion for affordable housing*. New York Daily News (Mar. 5, 2021). https://www.nydailynews.com/opinion/ny-oped-lets-use-not-waste-17-billion-for-affordable-housing-20210305-yxowvuqv4fawnciweofgruvtmq-story.html

Findings

2010-2020: A Period with Multiple Versions of 421-a

We first explore the development trends of multifamily residential properties over the past decade, focusing on the rate of production, percent of units that are affordable, level of affordability, and geography of 421-a properties during that period. To do so, we rely on publicly available data from the City of New York's Department of Finance (DOF), Department of Buildings (DOB), Department of Housing Preservation and Development (HPD), and Department of City Planning (DCP). In addition, we incorporate data from publicly available advertisements for affordable units in 421-a properties on the NYC Housing Connect portal (maintained by HPD and New York City Housing Development Corporation) between 2016 and 2021.

In the figures below, we trace newly permitted and completed units in properties with four or more units built between 2010 and 2020. Because development timing includes several milestones, including securing a permit to build, advertising units for lease up, completing construction, and being granted a tax exemption, we delineate which figures include all properties (permitted and "completed", which is the year a property is issued its first certificate of occupancy), and which only include a subset of properties (e.g., properties that have completed construction, or properties that were advertised via Housing Connect[25]). For detailed notes on the data in this report, please refer to our technical appendix.

The majority of multifamily units completed between 2010 and 2020 were built using a 421-a exemption. In residential properties of four or more units, 68 percent of units used 421-a, 21 percent used a separate program that provided property tax relief, and the remaining 10 percent may not have used any form of property tax relief.

To illustrate the make-up of new projects over the last decade, we summarize the characteristics of properties that completed construction or that the City permitted to be built (Table 2). Of completed units (in all new buildings, including rental, cooperative, and condo buildings), two-thirds (68%) were in properties that used 421-a, 21 percent of units were in properties that used another form of tax relief, and 10 percent were in properties that did not use an exemption. Of all completed properties, a similar share of properties used 421-a (70%), while a smaller proportion of properties used another exemption (9%), and a larger share were not listed as using an exemption (21%). The differences in proportions between the unit and property level point to the finding that, among completed properties, those with a 421-a exemption or without any exemption were typically smaller buildings compared to properties that received a property tax benefit for different types of affordable housing (420-c or Article XI, which are both programs that target fully affordable properties developed by HDFCs and/or non-profits), or another exemption.[26] 421-a properties had a median size of 10 units, compared to a median size of 65 units for 420-c and Article XI properties, 82 units for properties using another type of exemption, and 8 units for properties that did not use an exemption. Completed 421-a properties were slightly less likely to include residential condo units, compared to no exemption properties (41% and 45%). This difference is driven in part by the eventual exclusion of most condo development from the program. Finally, more than 70 percent of newly completed units in Queens, Manhattan, and Brooklyn, and 64 percent of units in

25. We pulled data from publicly available advertisements for affordable units advertised on Housing Connect between 2016 and 2021. For more information on those data, please refer to the technical appendix.

26. A few of the most common exemptions found here include: the Urban Development Act Action Program (UDAAP), NYS Urban Development (ESDC), and PILOT (EDC).

Staten Island were built using the 421-a exemption, while only 35 percent of new development in the Bronx used the program. Conversely, close to 60 percent of new units in the Bronx were built using the 420-c and Article XI exemptions.

Because builders can only apply for ANY after a property has been completed, many properties that show up in the data as permitted, but not completed, are likely to receive 421-a (or another exemption) in the future. For a look at the "pipeline" of properties, including properties likely to receive 421-a in coming years, we include as a separate category the units permitted, but not completed (Table 2). Of permitted units, we find that 59 percent are in properties with no exemption, while 12 percent are in properties already identified as using 421-a. The average number of units per property for permitted units follows a pattern similar to completed properties: 421-a and no exemption properties are typically smaller than 420-c and Article XI and other exemption properties (a median size of 11, 10, 72, and 128 units, respectively).

Table 2: New Residential Development (2010–2020)
Buildings With 4 or More Units

	Completed					*Permitted but Not Completed*				
	421-a	*420-c and Art. XI*	*Other exemption*	*No exemption reported yet*	*Total*	*421-a*	*420-c and Art. XI*	*Other exemption*	*No exemption reported yet*	*Total*
Units	117,042 (68%)	29,696 (17%)	7,317 (4%)	17,850 (10%)	171,905 (100%)	5,066 (12%)	5,414 (13%)	6,992 (16%)	25,283 (59%)	42,755 (100%)
Properties	3,093 (70%)	369 (8%)	45 (1%)	910 (21%)	4,417 (100%)	123 (12%)	42 (4%)	44 (4%)	783 (79%)	992 (100%)
Average units/building	38	81	163	20	39	41	129	159	32	43
Median units/building	10	65	82	8	10	11	72	128	10	10
Median residential sq. ft./unit	902	935	883	937	913	816	884	872	872	867
Share of properties with condos	41%	29%	24%	45%	40%	–	–	–	–	–
Units per borough										
Bronx	9,216 (35%)	15,617 (59%)	771 (3%)	693 (3%)	26,297 (100%)	–	–	–	–	–
Brooklyn	49,654 (75%)	6,811 (10%)	2,169 (3%)	7,840 (12%)	66,474 (100%)	–	–	–	–	–
Manhattan	33,791 (73%)	3,575 (8%)	1,665 (4%)	7,033 (15%)	46,064 (100%)	–	–	–	–	–
Queens	23,573 (74%)	3,401 (11%)	2,572 (8%)	2,254 (7%)	31,800 (100%)	–	–	–	–	–
Staten Island	808 (64%)	292 (23%)	140 (11%)	30 (2%)	1,270 (100%)	–	–	–	–	–

421-a' and 'Other exemption' categories include received and expected exemptions.

Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

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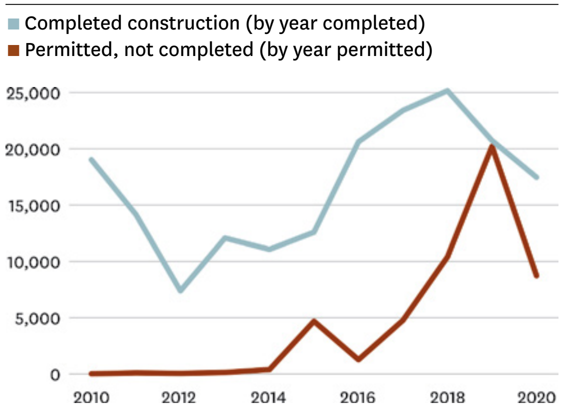
While the number of units completing construction peaked in 2018, there remains a substantial pipeline of units that have been permitted but not yet completed. We do not yet know what proportion of these properties will use 421-a.

In Table 2 above, we examine a pool of properties of 4 or more units that were either built or permitted between 2010 and 2020. As Figure 1 illustrates, the majority of units are in projects that completed construction (defined as issued first certificate of occupancy). Close to 20,000 units were completed in 2010 alone. Completions dropped to 7,400 in 2012, before rising again. The annual number of units completed peaked at close to 25,000 in 2018, before falling in 2019, and then again in 2020 (at the onset of the pandemic). Part of this drop may be attributed to a significant pipeline of permitted properties that have not yet completed construction. Most of those properties were permitted in 2018 and 2019, and may be currently under construction, or stalled for a variety of reasons. It appears that in 2015, the most recent 421-a sunset year, nearly 5,000 units were permitted but not completed. Of close to 120,000 units completed in 2015 or after, more than 43,000 (or 36%) stemmed from an aberrant spike of permits in 2015.

Figure 1: Units Built by Status (2010–2020)



Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

Among completed projects, the number of units built using 421-a peaked in 2017. There appears to have been a decline in the number of newly-built 421-a units during 2020, but this may be due to delays in data reporting, making it difficult to determine very recent developer choices.

The number of completed properties without exemptions began to noticeably increase beginning in 2016. This was the year of ANY's implementation, which included a severe restriction on the program's homeownership component, and increased the size of properties eligible for the tax exemption from four to six units (Figure 2, years 2018 to 2020 shaded to indicate potential delays in data on use of 421-a). The increase in completed properties without exemptions in 2019 appears to be driven by those newly excluded categories: condominiums or properties of 4 or 5 units that are now ineligible for the exemption (Figure 3, also shaded to indicate potential data delays).[27] In 2019, 61 percent of "no exemption" properties were ineligible for 421-a because of their size, or because they were built as a condominium. While the graph indicates a shift away from the use of 421-a between 2018 and 2020 (the number of units which used 421-a dropped sharply), the number of units eligible for 421-a but not using any exemption increased dramatically. However, these shifts may be due to a lag in data on 421-a exemptions, rather than evidence that developers are choosing not to use 421-a. Over the past decade, the number of properties using 420-c and Article XI also increased somewhat, while the number of properties using other exemptions stayed fairly stable.

27. In case studies, agency staff identified some properties listed as condos in DOF data that may, in actuality, function as rentals. However, we are unable to identify these properties systematically.

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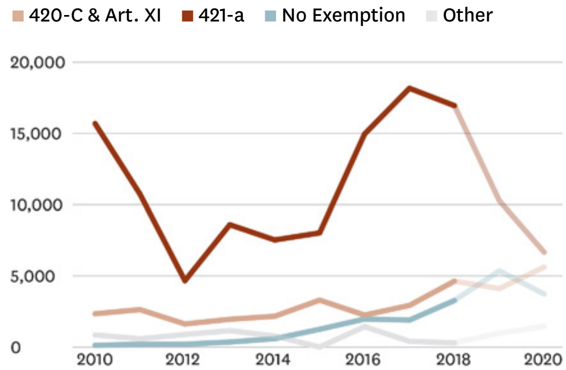
Figure 2: Units Built by Property Tax Benefit (2010–2020)
Among Properties that Completed Construction



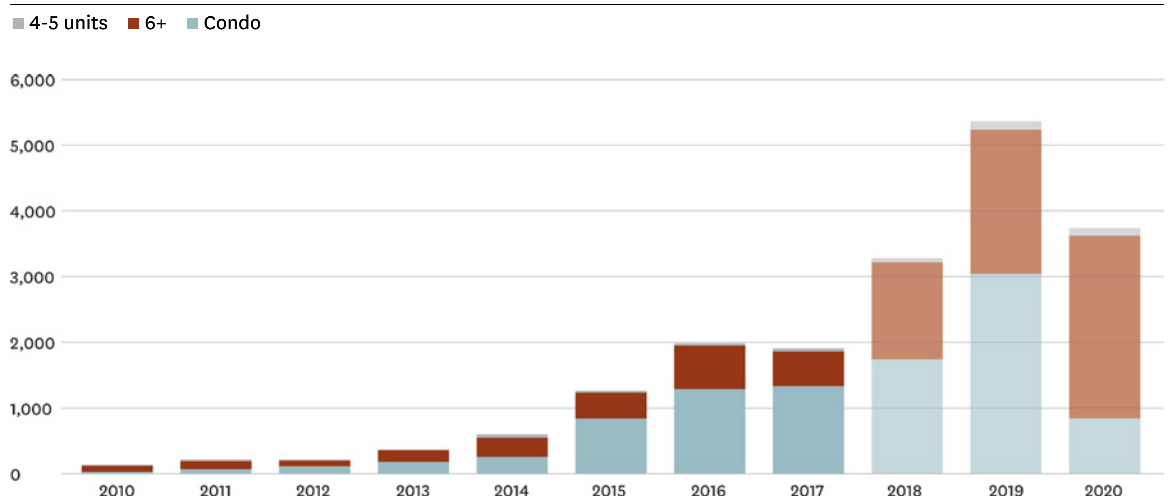
Note: data on the use of exemptions among recently completed projects may be delayed. Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

The overall distribution of new buildings that have used 421-a, by property size, remained fairly similar during the transition to Affordable New York.

Under ANY, projects with 30 or more units are required to pay building service employees a prevailing wage (with limited restrictions for fully affordable properties), and properties with 300 or more units in the Enhanced Affordability Area must pay a minimum average wage to construction workers.[28] In theory, these new requirements could disincentivize developers from building properties of certain sizes under the new program. However, compared to 421-a overall, ANY (the 35 year exemption program) had higher shares of properties with between 6 and 29 units (78% compared to 62% of all 421-a properties), smaller shares of properties between 30 and 99 units, (12% compared to 18%) and close to the same share of properties with 100 or more units (10% compared to 8%) (Table 3). On a per unit level, a greater share of ANY units were in properties with 300 or more units (43% compared to 30% of all 421-a units), while the share of units in properties with between 30 and 299 units was lower compared to 421-a units overall (37% compared to 50%) (Table 4).

28. The developers guide to "Affordable Housing NY Program" AKA the 421-a tax exemption. Nixon Peabody LLP (2017). https://www.nixonpeabody.com/-/media/Files/Brochures/developers-guide-to-421-a-Affordable-Housing-NY-Program.ashx

Figure 3: No Exemption Units by Property Size and Condo Status
Among Properties that Completed Construction



Note: data on the use of exemptions among recently completed projects may be delayed. Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

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Table 3: New Residential Properties by Size (2010–2020)						
Program Type	*Property Size (Number of Units)*					
	<=5	*6–9*	*10–29*	*30–99*	*100–299*	*300+*
421-a	390 (12%)	1,132 (35%)	875 (27%)	563 (18%)	188 (6%)	68 (2%)
421-a (10 year cap)	–	4 (16%)	1 (4%)	15 (60%)	4 (16%)	1 (4%)
421-a (10 year not cap)	4 (5%)	16 (20%)	18 (22%)	22 (27%)	17 (21%)	4 (5%)
421-a (15 year cap)	253 (19%)	509 (39%)	338 (26%)	181 (14%)	25 (2%)	10 (1%)
421-a (15 year not cap)	77 (11%)	242 (35%)	218 (32%)	120 (18%)	21 (3%)	5 (1%)
421-a (20 year cap)	–	1 (33%)	1 (33%)	1 (33%)	–	–
421-a (20 year not cap)	–	–	–	9 (18%)	24 (47%)	18 (35%)
421-a (25 year not cap)	35 (6%)	189 (33%)	139 (24%)	138 (24%)	53 (9%)	15 (3%)
421-a (35 year)	1 (0%)	126 (42%)	108 (36%)	35 (12%)	20 (7%)	9 (3%)
Anticipated 421-a	20 (11%)	45 (24%)	51 (27%)	42 (22%)	23 (12%)	6 (3%)
420-c	9 (3%)	43 (13%)	27 (8%)	164 (50%)	85 (26%)	3 (1%)
Art. 11	16 (20%)	4 (5%)	11 (14%)	14 (18%)	25 (31%)	10 (12%)
Other	4 (4%)	5 (6%)	6 (7%)	29 (33%)	30 (34%)	15 (17%)
No Exemption Reported (2010-2017)	170 (20%)	346 (40%)	213 (25%)	108 (13%)	22 (3%)	4 (0%)
No Exemption Reported (2018-2020)	85 (10%)	296 (36%)	269 (32%)	134 (16%)	33 (4%)	13 (2%)
Total	674 (12%)	1,826 (34%)	1,401 (26%)	1,012 (19%)	383 (7%)	113 (2%)

Note: 421-a' and 'Other exemption' categories include received and expected exemptions. 25 421-a properties advertised on Housing Connect are listed with less than 4 units. We assume the data on unit count are not yet updated and that the projects will ultimately house at least 4 units, per 421-a program requirements.

Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

Table 4: New Residential Units by Property Size (2010–2020)

Program Type	*Property Size (Number of Units)*					
	<=5	*6–9*	*10–29*	*30–99*	*100–299*	*300+*
421-a	1,630 (1%)	8,462 (7%)	14,609 (12%)	29,573 (24%)	31,218 (26%)	36,616 (30%)
421-a (10 year cap)	–	28 (2%)	18 (1%)	818 (44%)	649 (35%)	350 (19%)
421-a (10 year not cap)	18 (0%)	119 (2%)	369 (6%)	1,328 (21%)	2,747 (44%)	1,650 (26%)
421-a (15 year cap)	1,068 (4%)	3,748 (13%)	5,634 (19%)	9,203 (32%)	4,057 (14%)	5,350 (18%)
421-a (15 year not cap)	328 (2%)	1,793 (10%)	3,565 (20%)	6,156 (34%)	3,661 (20%)	2,552 (14%)
421-a (20 year cap)	–	7 (13%)	10 (19%)	35 (67%)	–	–
421-a (20 year not cap)	–	–	–	576 (4%)	4,580 (29%)	10,506 (67%)
421-a (25 year not cap)	146 (1%)	1,450 (5%)	2,362 (9%)	7,428 (27%)	8,814 (32%)	7,464 (27%)
421-a (35 year)	4 (0%)	969 (7%)	1,780 (13%)	1,899 (14%)	3,059 (23%)	5,739 (43%)
Anticipated 421-a	66 (1%)	348 (4%)	845 (9%)	2,130 (21%)	3,535 (36%)	3,005 (30%)
420-c	37 (0%)	338 (1%)	490 (2%)	10,522 (42%)	12,610 (50%)	1,106 (4%)
Art. 11	65 (1%)	32 (0%)	195 (2%)	990 (10%)	4,040 (40%)	4,685 (47%)
Other	7 (0%)	36 (0%)	77 (1%)	2,021 (14%)	5,194 (36%)	6,974 (49%)
No Exemption Reported (2010–2017)	735 (4%)	2,512 (15%)	3,367 (20%)	5,299 (31%)	3,491 (20%)	1,757 (10%)
No Exemption Reported (2018–2020)	374 (1%)	2,153 (8%)	4,305 (17%)	6,915 (27%)	5,061 (19%)	7,164 (28%)
Total	2,848 (1%)	13,533 (6%)	23,043 (11%)	55,320 (26%)	61,614 (29%)	58,302 (27%)

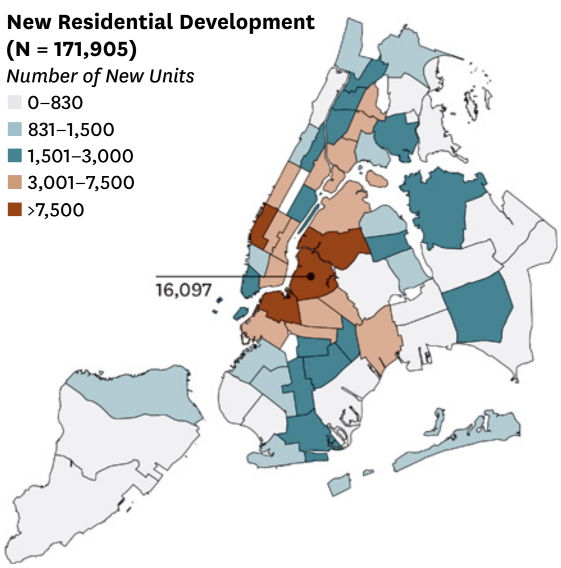
Note: '421-a' and 'Other exemption' categories include received and expected exemptions. 25 421-a properties advertised on Housing Connect are listed with less than 4 units. We assume the data on unit count are not yet updated and that the projects will ultimately house at least 4 units, per 421-a program requirements.

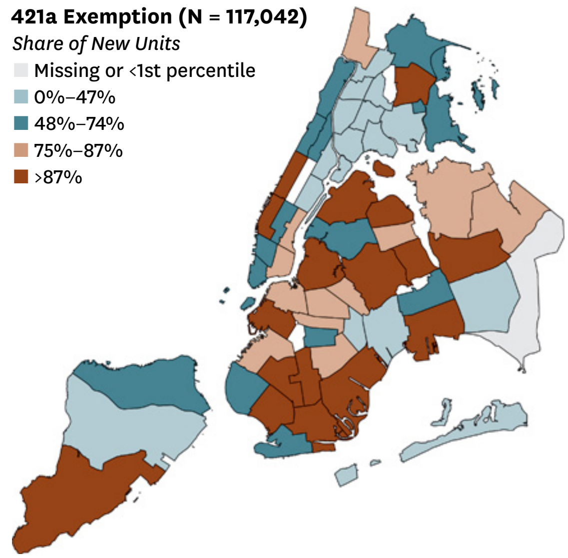
Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

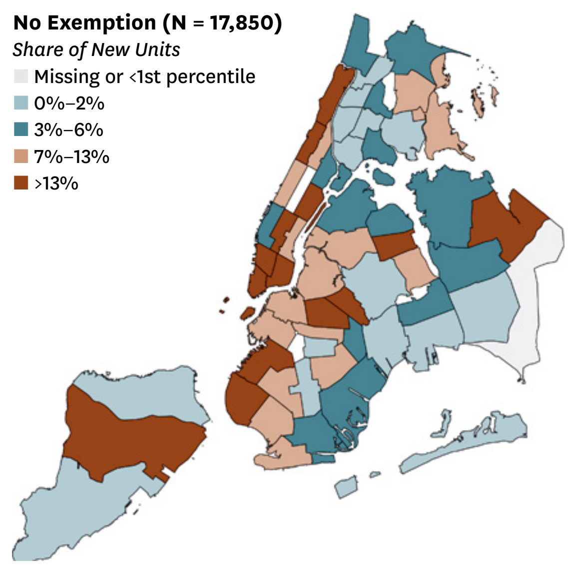
In terms of geography, 421-a units made up a large share of newly completed units across much of the city, particularly in Ridgewood/Maspeth (Queens), Astoria (Queens), and Hillcrest/Fresh Meadows (Queens).

Some neighborhoods saw more new development in the last decade than others (Figure 4). Lower Manhattan and inner Brooklyn and Queens saw the highest levels of residential development overall, particularly Greenpoint/Williamsburg, Clinton/Chelsea, and Fort Greene/Brooklyn Heights. 421-a properties made up a high share of newly completed units across all five boroughs, but Ridgewood/Maspeth, Astoria, and Hillcrest/Fresh Meadows, saw the highest share among community districts where more than 200 new units were completed during the previous decade. Much of the South Bronx saw a smaller share of development that used 421-a or no exemption; in those areas the 420-c and Article XI programs (targeted almost exclusively to subsidized affordable housing developments) were responsible for higher shares of new housing. In addition, a handful of neighborhoods are notable for having a higher share of new units that did not use any exemption, including Greenwich Village/SoHo and Bay Ridge/Dyker Heights.

Figure 4: Maps of New Construction Residential Development (Completed 2010–2020)







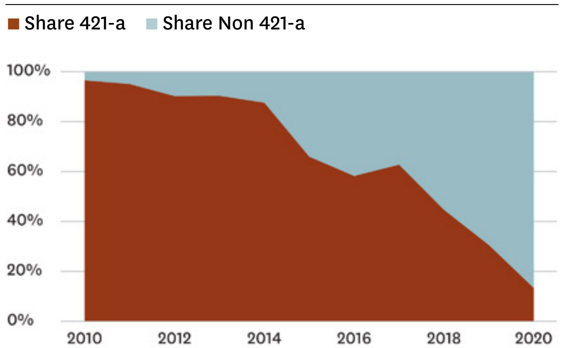
Note: 3.7 percent of properties did not match to data on building location, and are not included in the maps.

Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

Between 2010 and 2020, the share of condominium properties using 421-a dropped from 97 percent to 13 percent in concert with changes in the law.

Over the last decade, the share of condos built using 421-a dropped dramatically (Figure 5), likely driven by the design of ANY, which dramatically limited the ability of condo builders to use the program (although other benefits, including the Co-op and Condo Property Tax Abatement and the New York State School Tax Relief Program, are still available, and the effective tax rate on condos is generally lower than rental units). The largest share of condominium properties used 421-a in 2010 (97%), before declining to a small share ten years later (13% in 2020). The small share of condos completed under 421-a in recent years may include properties built using lingering off-site certificates awarded under an older version of the program. The number of condo properties completed also fell from 187 in 2019 to 53 in 2020, although that may be due to delayed information on condo status in more recent years.[29]

Figure 5: Share of Newly Completed Condos, By 421-a Status



Note: data on the use of exemptions among recently completed projects may be delayed. Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

29. Some of the shift towards building condos without 421-a may also be due to a delay in information on the use of 421-a, particularly for properties built in more recent years.

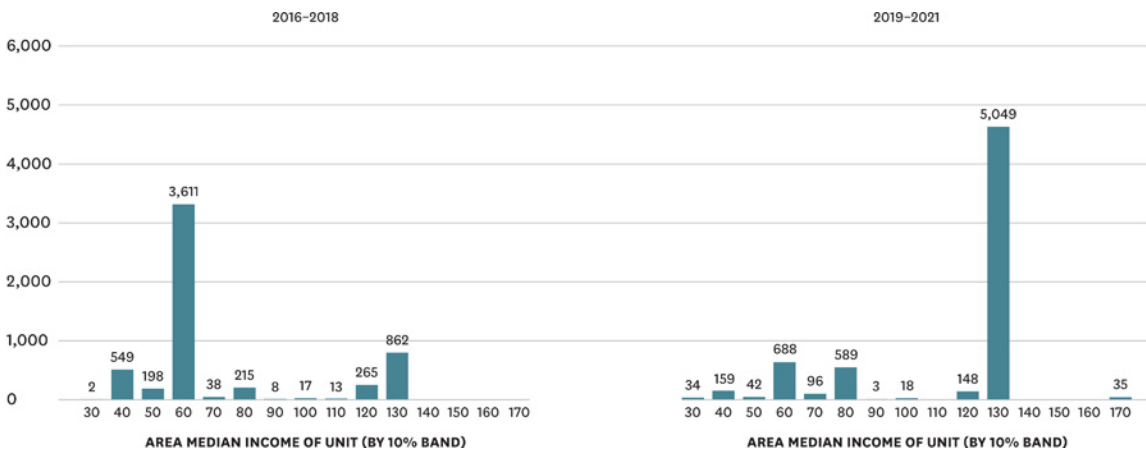
Over the last five years, the rents of advertised affordable units in buildings using 421-a have shifted from being affordable to low-income to being affordable to middle-income households, although the overall count of income-restricted units increased.

We analyzed the advertisements for income-restricted units posted on Housing Connect for buildings using 421-a (or noting an expectation of receiving 421-a) to examine changes in their affordability requirements. Advertisements posted between 2016 and 2021 show markedly different affordability levels between the first and last halves of the period (Figure 6).[30] Between 2016 and 2018, units set at 60 percent AMI predominate among advertised units. Indeed, the earlier versions of the program that were extended under the 421-a (1-15) program (for projects that began construction by 2015 and were completed by 2019) required affordable units to be set at 60 percent AMI (although those units were only compulsory for projects built in the GEA).

In the second half of the period–between 2019 and 2021–the impact of the ANY program on the distribution of affordable units becomes clearer. The ANY program was criticized for raising AMI limits (see Table 1), a design feature that translated to a high number of units advertised at 130 percent of AMI. The program has variations that require units at 40, 60, 70, and 120 percent AMI,

30. We use advertisements from HPD's Housing Connect website to review detailed data on income-restricted unit layout and AMI levels. However, those advertisements do not capture all properties built using 421-a during this period because some 421-a properties may not advertise at all if dedicated solely to households exiting shelter with a voucher. See the technical appendix for more information. Data on newly constructed income-restricted units built under Mayor de Blasio's *Housing New York* plan illustrate how all 421-a programs (including 421-a (16)) came to make up a larger share of newly-constructed, income-restricted units counted as affordable housing during this period. Between 2016 and 2018, the annual share of counted affordable units built under 421-a stayed relatively level (18% and 19%, respectively). In contrast, between 2019 and 2021, the share of affordable units increased from 20 percent to 48 percent, with more than 30 percent of all counted, income-restricted units coming from 421a during that time.

Figure 6: 421-a Units Advertised on Housing Connect (2016–2018 and 2019–2021)

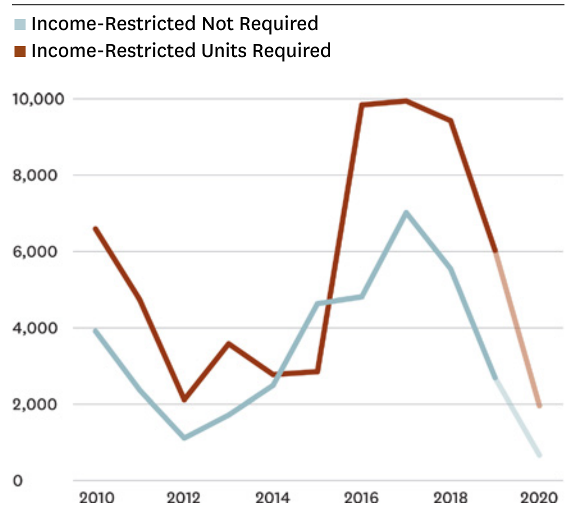


Sources: NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

depending on the option; all of those categories are represented in advertisements, as are units set affordable to households earning 80 percent AMI, a limit set under the Voluntary Inclusionary Housing Program. Units affordable at levels not specified in codified exemption or inclusionary programs (e.g., units set at 170 percent of AMI) point to other forms of subsidy that would be specific to particular developments.[31]

While the advent of ANY drove a shift in advertised income-restricted units towards higher household AMIs over the past five years, the program changes also led to an increase in the number of 421-a units in properties required to include any income-restricted units. While some earlier 421-a programs did not require income-restricted units in all geographies, the 20- and 25-year exemptions did require restricted units, as did ANY.[32] Beginning in 2016, when projects could first opt-in to ANY, the number of units in properties built under a version of 421-a that require income restricted units jumps from less than 3,000 to close to 10,000 (Figure 7).

Figure 7: Units Built by Income Restriction Requirements (2010–2020)
Among Properties that Completed Construction



Note: data on the use of exemptions among recently completed projects may be delayed.

Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

31. In Figure 6, we do not distinguish units with additional sources of subsidy through other programs, which would have their own income requirements.

32. For this analysis, we separate 421-a options over this period into programs that required income-restricted units and those that did not require income-restricted units. In the former group, we include: the 35 year exemption (codes 5121, 5123), the 20 year capped exemption (5122), the 20 year uncapped exemption (5116), and the 25 year uncapped exemption (5114). The later group includes the following: the 10 year capped exemption (5117), the 10 year uncapped exemption (5110), the 15 year capped exemption (5118), and the 15 year uncapped exemption (5113).

Affordable New York, 2016–2021 (421-a (16), rental program only):

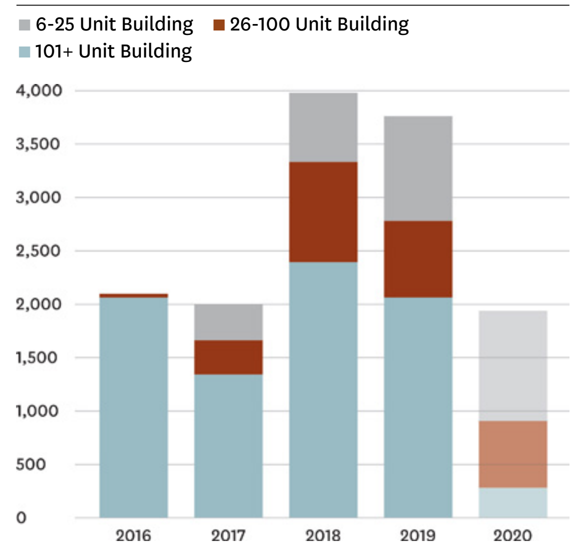
In this section, we explore the development trends and affordability levels for properties built using the most recent version of 421-a—Affordable New York. We limit our analysis to the rental options under the program (A,B,C,E,F, and G in Table 1), excluding the ownership option, which has rarely been used.

Approximately 13,700 units have been completed under Affordable New York, with the highest annual number of units produced in 2018 (about 4,000 units). Just over a fifth of units built under Affordable New York were in properties with 25 or fewer units.

Close to 13,700 units have been completed (received a first certificate of occupancy) using ANY since 2016, with the greatest number of units completed in 2018, and the lowest number in 2020 (3,962 and 1,927 units, respectively; see Figure 8). While some decline in the use of the program is to be expected due to the pandemic and the economic shutdown in 2020, it may also reflect two trends involving 421-a sunsetting periods: a decline in the pipeline of new market rate units due to the fact that so many recently developed properties accelerated their development in 2015, the last time 421-a lapsed; or, that developers are now prioritizing that projects begin construction before the upcoming 421-a sunset in June 2022. We also believe the totals in 2020 may be lower than actual activity due to a delay on information for approved 421-a exemptions in municipal data.

Of the units in buildings constructed using ANY during this period, 12 percent were in properties with between 6 and 10 units (with a total of 1,633 units), 10 percent were in properties with 11 to 25 units (a total of 1,353 units), 19 percent were built in 26 to 100 unit buildings (a total of 2,625 units), and 59 percent of units were in buildings larger than 100 units (a total of 8,097 units). While none of the 421-a units completed in 2016 were in small buildings (6-25 units), 26 percent of new 421-a units in 2019 were in small buildings. That share rose further to 53 percent in 2020. This may indicate a trend that smaller buildings make up a larger share of the total rental units that use 421-a over time. It could also be driven by large projects being better able to opt into the program as early as 2016, or that smaller, as-of-right buildings can be built more quickly after the start of the program, compared to larger properties with complicated, lengthy approval processes. Unfortunately it is difficult to distinguish these trends due to the aforementioned lag in data on 2020 421-a completions.

Figure 8: Units Built—Affordable New York Exemption (2016–2020)
Among Properties that Completed Construction



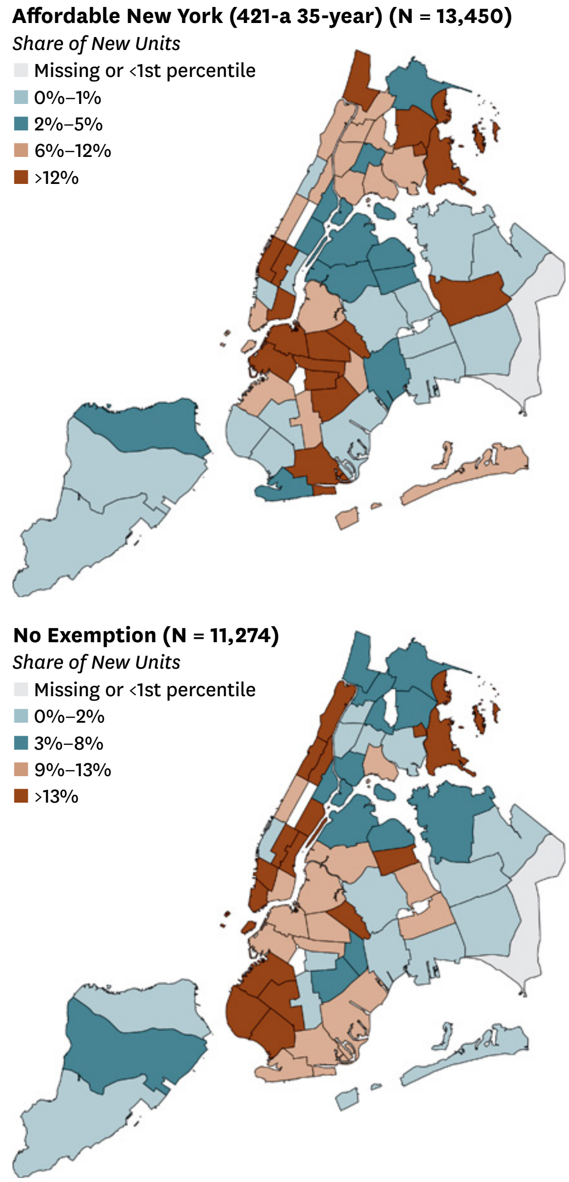
Note: data on the use of exemptions among recently completed projects may be delayed.

Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

The neighborhoods with the highest share of new units using the Affordable New York tax exemption were East Flatbush (Brooklyn), Clinton/Chelsea (Manhattan), and Hillcrest/Fresh Meadows (Queens).

Between 2016 and 2020, Affordable New York units made up a larger share of newly completed units (including condos) in certain neighborhoods in Queens, Brooklyn, and lower Manhattan (Figure 9). The neighborhoods of East Flatbush, Clinton/Chelsea, and Hillcrest/Fresh Meadows saw the highest share of new units completed using the Affordable New York tax exemption (51%, 42%, and 35%, respectively). In contrast, units completed without any exemption made up a larger share of completed units in Greenwich Village/Soho, Sunset Park, and the Financial District (49%, 38%, and 33%, respectively). Again, these data may be impacted by the delay of information on the use of 421-a in recent years, particularly in 2020.

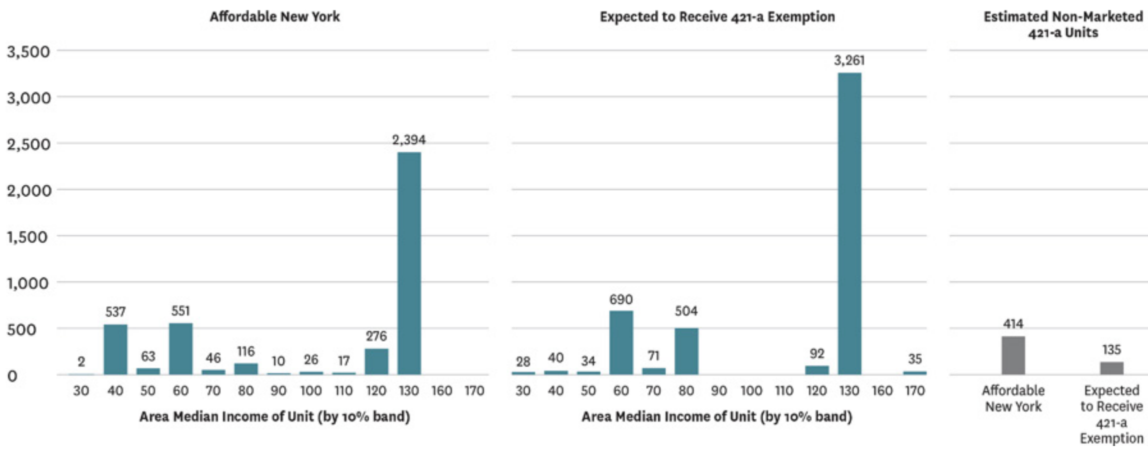
Figure 9: Completed Units (2016–2020)



Note: 3.7 percent of properties did not match to data on building location, and are not included in the maps.

Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development's Housing New York data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

Figure 10: Estimated Required Income-Restricted Units
Among Properties Advertised on Housing Connect (2016–2021)



Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

Under Affordable New York, a majority of advertised income-restricted units were set at the middle-income rents of 130 percent AMI.

We used public advertisements for affordable units on HPD's Housing Connect website and DOF exemptions data to estimate the number of income-restricted units built under the Affordable New York program. It is important to note that a portion of income-restricted units may never advertise because they are leased to households exiting the shelter system with some form of a housing voucher. According to HPD guidelines, developers that use the program are given the choice to lease income-restricted units directly to households exiting shelter rather than conducting a lottery via Housing Connect.[33] In Figure 10, we track the AMI of units listed via Housing Connect and estimate the number of income-restricted units for Affordable New York properties advertising below the required share of units to capture units that may never have been advertised.[34]

Among the advertised units, the vast majority of units are affordable to households with earnings at 130 percent of AMI. There are also high numbers of units set at other affordability levels required under the various options of Affordable New York, particularly at 40, 60, and 120 percent AMI. Units in properties that were advertised as 421-a units on Housing Connect, but were not yet identified with the exemption in DOF data ("Expected to Receive 421-a Exemption"), are similarly concentrated at the 130 percent level, pointing to a possible delay in the data on properties using 421-a as well as a "pipeline" of projects anticipated to receive the exemption. That group may also include other properties, such as those advertising units required under inclusionary housing or other programs.

33. Developers can also take units that have been previously advertised out of the lottery in order to set them aside for households exiting shelter. See: *Marketing Handbook: Policy and Procedures for Resident Selection and Occupancy*. (p. 25) New York City Department of Housing Preservation and Development, NYC Housing Connect, New York City Housing Development Corporation (Aug, 2021). https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/marketing-handbook-8-21.pdf

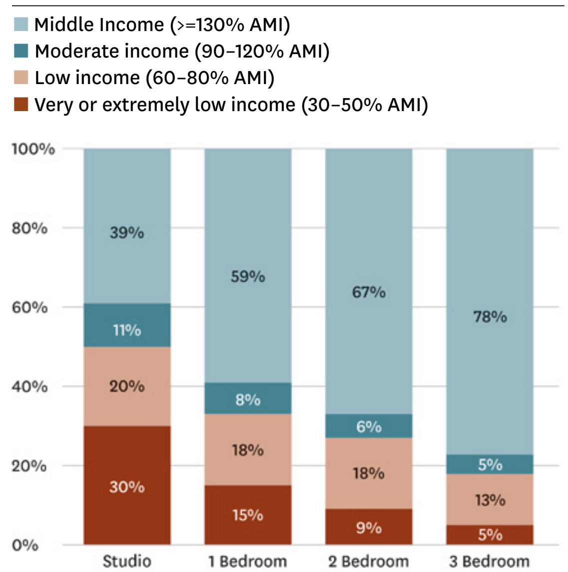
34. Of the six 35-year program options under Affordable New York, four require 30 percent income-restricted units and two require 25 percent income-restricted units, but we are unable to distinguish between options in the data. We estimate income-restricted units for properties that advertised less than 25 percent of their total units, and properties that did not have a matching housing lottery advertisement, assuming that 30 percent of units receiving the 421-a exemption are income-restricted. For properties that advertised income-restricted units under the 421-a program on Housing Connect and were not identified in the DOF exemptions data ("Expected to Receive 421-a Exemption"), we were unable to identify the total number of units and therefore could not estimate income-restricted units.

While half of rent-regulated studios advertised on Housing Connect under Affordable New York were targeted to low-, very low-, or extremely low-income households, only a quarter of advertised two-bedroom units were affordable for those households.

Among units advertised for Affordable New York, we found 720 studios, 1,849 one-bedrooms, 1,221 two-bedrooms, and 110 three-bedrooms (Figure 11). The number of bedrooms in a unit can determine which type of household is eligible for a new income-restricted unit. Many policymakers prize larger units because they are able to accommodate families with children. However, only five percent of advertised three-bedroom units were affordable to very or extremely low-income households. This is likely driven by the law authorizing 421-a, which requires that properties mirror the unit mix of market rate units in their affordable units, or that half of the affordable units be at least two-bedrooms, and that no more than half of remaining units be smaller than a one-bedroom.[35]

The practice of leasing units directly to households exiting shelter, rather than listing them on Housing Connect, likely skews these findings, particularly if certain types of units are more likely to be leased directly than others. Among advertised units for properties under Affordable New York, studios and one-bedroom units had higher shares of units targeted to very or extremely low-income households compared to larger units. Conversely, a greater share of three-bedroom units were priced for middle-income households, raising concerns about the ability of larger families to access more deeply affordable units.

Figure 11: Affordable New York Units Advertised on Housing Connect (2016–2020)
By Number of Bedrooms



Sources: NYC Department of City Planning's PLUTO and Housing Database (2021, 2020), NYC Department of Finance's Property Assessment Data (2021), NYC Department of Housing Preservation and Development and Housing Development Corporation's NYC Housing Connect (2016–2021), NYU Furman Center

35. SECTION 421-A, Affordable New York Housing Program, Real Property Tax (RPT) CHAPTER 50-A, ARTICLE 4, TITLE 2, https://www.nysenate.gov/legislation/laws/RPT/421-A

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Active 421-a Property Tax Expenditures

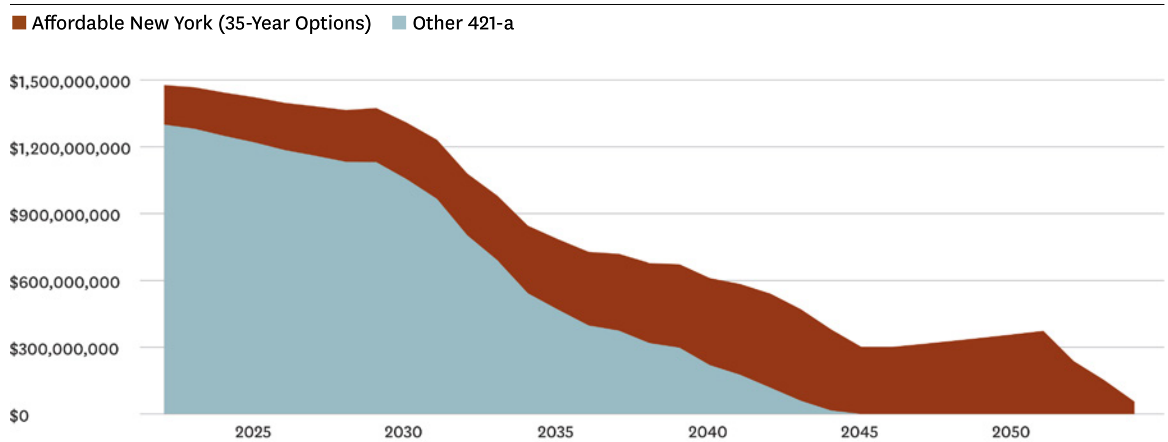
In our final section, we take a detailed look at the future trajectory of tax expenditures based on all properties which currently benefit from the 421-a tax expenditure in the 2021–2022 fiscal year. For this analysis, we rely on DOF exemption data and the phase-out schedules for each program and option under 421-a. For the purpose of illustrating current baseline expenditures, we do not try to project future development.

Based on properties with an obligated 421-a exemption, the annual tax expenditure is projected to remain fairly constant until 2030, as older versions of the program gradually phase out.

Even if 421-a is not renewed in 2022, the City will still carry obligated exemptions into the future. If no new properties were to receive 421-a, we estimate that 421-a's total tax expenditure would be close to $1.5 billion in the fiscal year 2022. That number would not fall to $0 until 2055 (Figure 12).[36] The rate of decline would not be constant over time, as different versions of 421-a phase out across different properties: we estimate that total expenditures would drop by only 11 percent between 2022 and 2030, with a further decline by 53 percent in the following decade. Of the current 421-a properties, earlier versions of 421-a make up more than half of the total tax expenditure under the program until 2038. Recently completed buildings will continue to benefit until 2055 under the 35-year schedule of the Affordable New York program. For these reasons, the ability to "monetize" an immediate expiration of 421-a is very limited, at least up to some period between 2030 and 2040.

36. This trajectory will change as new 421-a properties are completed.

Figure 12: Estimated Tax Expenditure (2022–2055)



Source: NYC Department of Finance's Property Assessment Data and Property Exemption Data (2021), NYU Furman Center

Conclusion

The 421-a tax exemption has been a fixture in New York City's property tax system and approach to new housing development for close to 50 years. As the latest version of the program nears its sunset date, it is useful to review the housing generated under the program. We show that under 421-a, new market rate properties of various sizes have been developed across the boroughs at a large scale, while incorporating mostly "middle-income" income-restricted units, and creating a smaller but not insignificant number of lower income units. We also find that smaller properties (6-29 units) made up 78 percent of the properties built under Affordable New York, with 20 percent of the total units built in such properties.

Key questions about the program remain, such as whether its cost is warranted as a tool to incentivize the development of rental housing and whether the affordable housing it produces could be better harnessed to promote economic and racial integration. And if not 421-a, could alternative policies ensure apartments continue to be built in New York City, thereby reducing pressure on the existing market rate rental housing stock over the long run?

It is important to note that we have not seen the last of Affordable New York regardless of the legislature's actions. Based on the pattern of prior expiration cycles (2008 and 2015) we may well see a spike in permitting in the first two quarters of 2022, as developers race to secure eligibility for 421-a before the sunset date, and then work to build their property by June 15, 2026. The future housing pipeline beyond that period remains unclear.

Technical Appendix

In this analysis, we rely on a number of different data sets with discrete strengths and limitations. Below, we outline those data sets and provide additional detail on our approach to data cleaning and analysis.

Data on New Multifamily Development: 2010–2020

To identify properties built over the past decade, we match publicly available data from the New York City Department of Finance (DOF), the Department of Buildings (DOB), the Department of Housing Preservation and Development (HPD, buildings, units, and projects counted toward Housing New York), and the New York City Department of City Planning (DCP) on all 4+ unit residential buildings built in the city between 2010 and 2020, including building location, size, and year construction completed. In addition, we draw on Department of Finance building-level data that details any tax exemptions, including the start date and end date of the exemptions. These data allow us to identify when and where new buildings and major renovations occur in the city, as well as their exemption status.

A few notes on our approach: firstly, we define "421-a properties" as those properties with an active 421-a tax exemption in the final roll of tax year 2021-2022. We drop projects with a 3 year construction exemption to avoid double counting units for those projects. Unfortunately, not all 421-a properties that are identified in the tax roll match to permit or certificate of occupancy data via DOB. We drop properties that do not match to these DOB data, including 1,133 421-a properties (of which a total of 2 are the "10 year capped" program, 30 are the "10 year not capped" program, 496 are the "15 year not capped" program, 132 are the "15 year capped" program and 413 of which are the "25 year not capped" program; only 36 are identified as the 35-year program). Secondly, some properties combine various exemptions; for this analysis, we define properties into exclusive and exhaustive groups, prioritizing the identification of 421-a exemptions over other types of exemptions. For example, a property listed as having both active 421-a and 420-c exemptions is defined as a 421-a property, while a property with only 420-c would be grouped with other non-421-a exemptions.[37]

Unit counts are missing for some properties or are inconsistent across data sources. For these data, we estimate unit counts per property by waterfalling variables from the following sources (in order of prioritization): DOF, HPD (Housing New York), and DOB. For properties that only appear in Housing Connect we use the total number of advertised units. The year for properties is estimated as follows: for properties with active exemptions according to DOF, we use the "benefit start year" of the exemption. For others it is the max year available across DOF, DOB, and Housing New York. When looking exclusively at completed properties, we instead use the "complete year" via DOB, which represents the year of the first issuance of certificate of occupancy. Finally, we identify the presence of residential condo units using both indicators from DOF Property Assessment Data as well as data from the New York State Office of the Attorney General, which maintains a database of information related to all submitted condominium plans.

37. We do not proactively include projects with alteration years within the past decade in these data, even though some alterations are so large in scale that they may seem similar to newly constructed properties. While some 421-a exempt properties are built via an alteration permit (and the use of 421-a implies that they should be considered new construction), we are unable to systematically identify non-exemption properties with alteration permits but that similarly should be included, and so leave the ~2,000 421-a units built under alteration permits out of this analysis.

Housing Connect Advertisements

When discussing the level of affordability and layout of units, we rely on a second source of data taken from advertisements for affordable units in properties listed on the New York City Department of Housing and Preservation's Housing Connect website as anticipated to receive 421-a or receiving 421-a. These data date back to 2016 and were collected in August of 2021, but do not necessarily represent the full universe of units built or made available under the program during that period. Comparing our data to HPD's data on Housing New York, for example, we find that 669 of 1,106 Housing New York properties appeared in advertisements, with missing properties driven at least in part by the limited time frame of our data collection. In some cases, these advertisements are posted in advance of appearing in the DOF data on exemptions, and so provide insight on the "pipeline" of units that are anticipated to complete construction and be approved for 421-a.

Tax Expenditure Analysis

For the tax expenditure analysis, we use DOF exemptions data from period 3 of fiscal year 2022 to identify properties with a 421-a exemption and the year each exemption started. We match those properties to 2022 DOF Property Assessment Data on tax class and assessed value, as well as the exemption schedules for each version of the 421-a program. We then estimate the total expenditure for each year starting in 2022, using 2022 tax rates and allowing for a 4 percent annual increase in assessed value.

To account for the "mini tax," or the tax on the property value prior to the improvement receiving the 421-a exemption, we limit our sample to properties with a full (100%) tax exemption and subtract the value of the exemption from the assessed value for properties, finding the median tax per gross square foot on that amount within each borough. Finally, we subtract the estimated mini tax based on borough and gross square feet for each property and year of the analysis.

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The NYU Furman Center advances research and debate on housing, neighborhoods, and urban policy. Established in 1995, it is a joint center of the New York University School of Law and the Wagner Graduate School of Public Service. More information can be found at furmancenter.org and @FurmanCenterNYU.