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Affordable Housing Alert

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New York's HONDA Act incentivizes affordable housing conversions

By Meghan C. Altidor and James Allen

New York becomes the latest state to pass legislation that seeks to convert distressed hotels or other commercial properties into affordable housing, creating opportunities for property owners and nonprofit organizations.



What's the Impact

- / The Housing Our Neighbors with Dignity Act (HONDA) creates a path to financing the purchase, acquisition, holding or conversion of distressed properties for use as permanently affordable or supportive housing.
- / Planning ahead with the help of experienced counsel will maximize the ability to take advantage of HONDA Act funds and streamline the conversion process.

On Friday, August 13, 2021, New York became the latest state to pass legislation that, in the wake of the COVID-19 crisis, seeks to convert distressed hotels or other commercial properties into affordable housing. In attempting to address the dual issues of providing affordable and supportive housing while also creating an avenue of relief for hotel and office owners that have experienced a rise in vacancy rates over the past year, the [Housing Our Neighbors with Dignity Act \(HONDA\)](#) allocates State financing for the acquisition or conversion of distressed hotels and

other commercial properties. There are notable restrictions tied to the use of HONDA funds that interested parties should carefully analyze.

Signed into law on August 13, 2021, HONDA amends the New York Private Housing Finance Law (PHFL) by empowering the Housing Trust Fund Corporation (HTFC) to finance the purchase, acquisition, holding, or conversion of distressed hotels and commercial office properties by nonprofit organizations for use as permanently affordable or supportive housing and housing for people experiencing homelessness.

Covered projects receiving HONDA funding

Generally, HONDA provides a pool of State funds for appropriate nonprofit organizations to purchase, convert, and operate permanently affordable or supportive housing. The funds allotted by the State for acquisition and conversion through rehabilitation are intended to be supplemented by any combination of subsidies, vouchers, commercial rents, or other sources of income available.

Affordability

In municipalities that have adopted the rent stabilization law, units in converted properties must be rent-stabilized. In all jurisdictions, units must be permanently affordable, with at least half of all units set aside for individuals and families experiencing homelessness immediately prior to leasing a converted unit. Affordability calculations in the converted properties are specified within HONDA and require, among other things, that the new housing achieves income averaging at or below 50% percent of the area median income (AMI), with residents' eligibility capped at a maximum of 80% percent of AMI upon commencement of a lease.

Prevailing wage

In New York City, Owners are required to pay building service employees employed at a converted property, including superintendents, porters, guards, and others, at least the applicable prevailing wage unless the property is considered either "exempt supportive housing" or a "small converted property" (i.e., no more than 119 units).

Nonprofit participation

The law explicitly provides eligibility for "appropriate nonprofit organizations," which are defined as organizations that have a primary purpose of providing housing to low-income families or that offer services or housing for families and individuals experiencing homelessness.

CBA consent

For hotel properties with a collective bargaining agreement (CBA) in place, the collective bargaining representative must be notified of the conversion by the owner of the distressed property, and the owner must certify to the State that the representative has agreed to the acquisition.

Amenities

HONDA also establishes what amenities must be provided in each unit upon conversion, including, at minimum, a living/sleeping space, private bathroom with bath or shower, and either a full kitchen or a kitchenette with at least a refrigerator, sink, cooktop, microwave oven, and outlets for countertop appliances.

What's next?

HONDA is a significant step by the State as it seeks to leverage existing vacancies in hotel and commercial properties into affordable housing opportunities. We expect our clients would need to consider applying HONDA funds to conversions of properties with minimal renovation needs and minimal-to-no changes to building code requirements or zoning laws. We expect that creative combinations of public and private financing sources would also maximize an appropriate nonprofit's ability to take advantage of the HONDA Act funds.

We will continue monitoring the impact of this new law as it relates to affordable and supportive housing. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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