



August 25, 2008

Mr. Rohit Aggarwala  
Director  
Office of Long Term Planning and Sustainability  
253 Broadway  
New York, New York 10007

**Re: Green Roof Tax Abatement**

Dear Mr. Aggarwala:

We are enthusiastic that a goal shared by PlaNYC and the S.W.I.M. Coalition was recently fulfilled when Governor Paterson signed the real estate tax abatement for green roofs passed this June by the State Legislature. We write to thank you for the City's support for the tax abatement, and to express our desire for its timely and transparent implementation.

Following the bill's passage, S.W.I.M. members have received numerous inquiries about when and how the bill will be implemented, both from green roof installers and their potential clients who could install green roofs this growing season. Presently, many green roof projects are on hold until the City clarifies critical issues concerning eligibility and application for the tax abatement. We would like the opportunity to meet with you or your staff within the next few weeks to discuss the City's plans for implementing the new tax abatement.

Our major procedural and substantive concerns are as follows:

1. **Timing:** The application requirements should be published and the application forms made available as soon as possible. The City should also assure the public that all eligible green roofs installed after the Governor signed the credit into law will be able to receive the tax abatement for the fiscal year beginning on July 1, 2009, provided they submit application to the City by March 15, 2009 (as per the application deadline established by the state legislation).
2. **Application process:** Applying for the tax credit should be simple, involving as few agencies as possible in the process. Likewise, meeting the application requirements should not require the applicant to expend huge sums on professionals, eating up the value of the tax abatement and thereby discouraging applications.

3. **Fees:** The total of all fees for the application should be low, *e.g.*, \$100, which is the fee for a revocable consent.
4. **Permits:** Applying for the tax credit and installing the green roof should not necessarily engage the applicant in a plan approval process at the Department of Buildings (DOB). We understand DOB's concern about the load bearing capacity of a roof. But, there should be at least one "pre-approved" green roof tax credit-eligible design option for existing buildings for which no PW1 needs to be filed. For example, a 3" vegetative layer, pre-packed in 18"-24" square burlap bags containing growing medium and seeds, is lightweight. Wet, it is lighter per square foot than many planters placed on roofs for which no application must be filed at the Department of Buildings. With respect to such a system or others that do not involve a structural modification to the roof, an engineer's or architect's certification of load-bearing capacity, which is specifically required under the tax abatement law, should be deemed sufficient, without need for a PW1 to be filed. This would make it feasible for green roofs to be installed safely and quickly, without the additional costs of expeditors, and without burdening DOB's plan examiners.
5. **Planting requirements:** The City should clarify that green roofs must be designed and planted to result in 80% coverage by live vegetation at the end (not at the beginning) of the 3-year maintenance period, as it may take up to three years for vegetative cover to grow in to its full 80% coverage.
6. **Maintenance:** The 3-year maintenance agreement should be a simple and fair agreement, in plain English, so that individuals do not feel they must hire an attorney to read and sign it. We have examples from other cities we will share with you, under separate cover. The agreement should also include a force majeure defense to actions for revocation of the tax abatement – *i.e.*, property owners should not be penalized if severe weather conditions beyond their control result in temporary noncompliance with the maintenance requirements.
7. **Flexibility:** Finally, to allow for innovation and accommodate the range of successful green roof designs currently in use, the City should not issue regulations establishing any prescriptive environmental design requirements beyond those specifically included in the state law. (It would be useful, however, for the City to provide non-binding guidance on issues such as the selection of plant species.)

At a meeting with you, we would also like to highlight a few apparent anomalies in the statute that may be in need of clarification.

Please contact Rob Craudereuff at 718-617-4668, ext. 22 with any questions or concerns. We will follow up shortly with your office to request a specific date for a meeting and look forward to working with you to implement this exciting new program.

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Sincerely yours,

*The S.W.I.M. Steering Committee*



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cc: Mr. Carter Strickland  
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Hon. Ruben Diaz, Jr., NYS Assembly  
Hon. Martha E. Stark, Commissioner, NYC Dept. of Finance  
Hon. Robert LiMandri, Acting Commissioner, NYC Dept. of Buildings  
Ms. Deborah Taylor, NYC Dept. of Buildings