

**BERDO PHASE 3 REGULATIONS
NOTES FOR WORKING SESSION ON BUILDING PORTFOLIOS**

MARCH 29, 2023

This document presents a summary of the preliminary regulations proposals presented by the City of Boston for a public technical working session. This meeting focused on regulations related to Building Portfolios.

<p style="text-align: center;">Preliminary proposals and questions From the City of Boston</p>	<p style="text-align: center;">Feedback and questions from the public</p>
<ul style="list-style-type: none"> ● <i>A Building's Owner of record means the Owner(s) listed in the Boston Assessing Department.</i> 	<ul style="list-style-type: none"> ● <i>We have five buildings on contiguous lots that have been financed with HUD or LIHTC. Each building has its own "owner" but all are managed by our management company. Will we need approval to be considered a Portfolio?</i> ● <i>Ownership structures for affordable housing can take many forms, including LLCs and partnerships. We manage the buildings, but this is not reflected in the records of the Assessing Department.</i> ● <i>We also have five buildings; three of them have the same real estate trust, and two of them have different real estate trusts, but they all serve the same beneficiaries.</i> ● <i>Assessing data does not always reflect the effective Owner of a building, including when there are ground leases involved.</i> <ul style="list-style-type: none"> ○ <i>Note from BERDO Team: Buildings with ground leases can go through the process of</i>

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	<p align="center">designating a tenant as an “Owner”, following the process established in past regulations.</p>
<ul style="list-style-type: none"> ● <i>There are three proposed application pathways:</i> <ul style="list-style-type: none"> ○ <i>Standard application</i> ○ <i>Standard application with potential environmental justice impacts</i> ○ <i>Non-standard application</i> ● <i>A standard application would require the following:</i> <ul style="list-style-type: none"> ○ <i>The Building Uses, Energy Use, and Emissions for each Building included in the Portfolio have been third-party verified in the last Verification year.</i> ○ <i>All Buildings included in the Portfolio are in compliance with the Ordinance.</i> ○ <i>None of the Buildings included in the Portfolio are vacant, including awaiting for demolition.</i> ○ <i>The applicant demonstrates that they are the Owner of record of all Buildings in the Portfolio or all buildings in the Portfolio are part of one Institutional Master Plan.</i> 	<ul style="list-style-type: none"> ● <i>Do all buildings within the portfolio need to be in compliance with BERDO? Including new buildings in a Portfolio?</i> <ul style="list-style-type: none"> ○ <i>Note from BERDO Team: We are proposing that buildings need to be in compliance with all requirements of the Ordinance when they come into a Portfolio. Compliance with emissions standards may also include paying Alternative Compliance Payments and penalties, if any.</i> ● <i>Can a building that is out of compliance be included in a Portfolio?</i> <ul style="list-style-type: none"> ○ <i>Note from BERDO Team: Based on our preliminary proposals, this may be a reason to use a non-standard application.</i> ● <i>Is it an option to get a portfolio approved before emission reductions are required? We have three buildings built in the 70s and two new buildings that are highly efficient. This will help us because we can't make all renovations at once.</i> <ul style="list-style-type: none"> ○ <i>Note from BERDO Team: Yes, we are proposing that Owners will be able to apply for a Building Portfolio before 2025.</i> ● <i>Are these regulations setting up an opportunity for Owners to have multiple Portfolios?</i> ● <i>What will the Review Board be looking at to approve a</i>

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	<p>portfolio?</p> <ul style="list-style-type: none"> ● Who will identify the impacts on environmental justice communities? Will Owners need to provide that information or will the City make that assessment? ● What is the advantage of having a portfolio rather than a collection of buildings? Is it that (1) making it a portfolio makes the process simpler? (2) the negative emissions impact of one building could be diluted by the other and cleaner buildings in the portfolio? or (3) both? <ul style="list-style-type: none"> ○ Note from BERDO Team: The benefit of a Building Portfolio is that it allows Owners of multiple buildings to plan for compliance at the Portfolio level, rather than the Building level. ● Doing more in one building only impacts the portfolio level compliance if there is a diversity of typologies in buildings across the portfolio -- is that correct? <ul style="list-style-type: none"> ○ Note from BERDO Team: Building Portfolios may benefit Owners, even if the Portfolio only includes the same type of Buildings.
<ul style="list-style-type: none"> ● Should primary uses qualify at the Building level or at the Building Portfolio level? ● Should we require verification of all primary uses at the Building level or at the Building Portfolio level? ● For those considering Portfolios, how often do you change internal building uses? Do you have good data on the GFA of primary uses of your buildings? 	<ul style="list-style-type: none"> ● We had imagined that the 10% threshold for primary uses would apply at the Building level. ● We also had thought about primary uses at the Building level. ● Building uses don't change significantly often enough to reconsider blended emissions standards every year. ● For universities, building uses are always in flux. ● I would think you want to capture space uses that may

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	<p><i>be less than 10% of an individual building, but aggregate to a more substantial amount across a portfolio.</i></p> <ul style="list-style-type: none"> ● <i>When a primary use is significantly more than 10%, it is much easier to capture and identify, but if it is smaller, it is more difficult.</i> ● <i>How do you account for spaces that are less than 10% of a Building's square footage?</i> <ul style="list-style-type: none"> ○ <i>Note from BERDO Team: Per adopted regulations, all non-primary uses would use the emissions standard of the largest primary use in said building.</i> ● <i>Are blended emissions standards optional?</i>
<ul style="list-style-type: none"> ● <i>Initial applications to be approved as a Building Portfolio may be submitted on a rolling basis until November 1, 2024. Thereafter, applications must be submitted by September 1 of each year to qualify as a Building Portfolio for the following compliance year.</i> ● <i>With notification, Buildings may be removed from a Building Portfolio due to:</i> <ul style="list-style-type: none"> ○ <i>Change of Ownership of an existing Building</i> ○ <i>Demolition or vacancy of an existing Building</i> ● <i>Review Board approval is needed if the Owner wishes to remove a Building from a Building Portfolio due to any other reasons or add a new Building to the Portfolio.</i> ● <i>Requests and notifications to update a Building Portfolio must be submitted by September 1 to be</i> 	<ul style="list-style-type: none"> ● <i>No comments or questions from the public.</i>

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<p><i>reflected for the following compliance year.</i></p> <ul style="list-style-type: none"> • <i>The Building Uses and emissions of any added buildings must be third-party verified before being included in a Building Portfolio.</i> 	
<ul style="list-style-type: none"> • Buildings reporting as a campus as defined in Portfolio Manager are eligible to comply with the Ordinance as a Building Portfolio, either as a single Building Portfolio or as part of a bigger Building Portfolio. 	<ul style="list-style-type: none"> • <i>For these buildings already reporting as a Campus under Portfolio Manager, is applying for a Building Portfolio optional or is it required?</i> • <i>What would happen for a “campus” if there are some connected buildings that are not covered under BERDO?</i>