



Legislation Text

File #: Res 1739-2017, Version: *

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1739**

Resolution approving a new real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), termination of a prior exemption under PHFL Section 125, consent to the voluntary dissolution of the prior owner under PHFL 123(4), and approval of the conveyance to a new owner for the for property located at Block 1617, Lot 7, Borough of Manhattan, (Preconsidered L.U. No. 824; Non-ULURP No. 20185110 HAM).

By Council Members Greenfield and Salamanca

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 17th, 2017 its request dated November 17th, 2017 that the Council take the following actions:

Approve an exemption from real property taxes pursuant to Section 577 of the Private Housing Finance Law;

Approve, pursuant to Section 125 of the PHFL, the termination of the Prior Tax Exemption; and

Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner (together the "HPD Requests");

for property located at Block 1617, Lot 7, Community District No. 11, Borough of Manhattan, Council District No. 9 (the "Exemption Area");

WHEREAS, upon due notice, the Council held a public hearing on the HPD Requests on November 20, 2017;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the HPD Requests;

RESOLVED:

Pursuant to Sections 577, 123, and 125 of the Private Housing Finance Law, the Council approves the following actions relating to the Exemption Area:

1. Approve an exemption from real property taxation pursuant to Section 577 of the Private Housing Finance law as follows:
 - a) For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Company" shall mean NERVE Los Tres Preservation LLC.
 - (2) "Current Owner" shall mean Los Tres Unidos Associates, LP.
 - (3) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the New Owner enter into the Regulatory Agreement.

- (4) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1617, Lot 7 on the Tax Map of the City of New York.
 - (5) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - (6) "HDFC" shall mean NERVE Los Tres Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - (7) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (8) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - (9) "New Owner" shall mean, collectively, the HDFC and the Company.
 - (10) "Prior Exemption" shall mean the exemption of the Exemption Area from real property taxation pursuant to Section 125 of the PHFL approved by the Board of Estimate on January 24, 1980 (Cal. No. 25).
 - (11) "PHFL" shall mean the Private Housing Finance Law.
 - (12) "Regulatory-Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
- b) All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business, commercial or community facility use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
- c) Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real property tax payments in the sum of (i) \$419,966, plus (ii) an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the Exemption Area for that year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the Effective Date. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the lesser of either (a) the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation, or (b) seventeen percent (17%) of the contract rents, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), in the applicable year.
- d) Notwithstanding any provision hereof to the contrary:
- (1) The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

- (2) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that exists on the Effective Date.
 - (3) Nothing herein shall entitle the HDFC, the Owner or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
- e) In consideration of the New Exemption, the owner of the Exemption Area, for so long as the New Exemption shall remain in effect, shall waive the benefits, if any, of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule, or regulation.
- 2. Approve, pursuant to Section 125 of the PHFL, the termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.
 - 3. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.
 - 4. If the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur either (i) within one day following the termination of the Prior Exemption, or (ii) on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void, the dissolution of the Current Owner shall be rescinded, and both the obligations of the Current Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been terminated or interrupted.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on November 30, 2017, on file in this office.

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City Clerk, Clerk of The Council