



## Legislation Text

**File #:** Res 1720-2008, **Version:** \*

### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1720

Resolution approving a tax exemption and a voluntary dissolution for a Project located at 2950 Park Avenue, 635 Morris Avenue (Block 2441, Lot 1), the Bronx, pursuant to the Private Housing Finance Law (L.U. No. 929; 20095181 HAX).

By Council Members Katz and Garodnick

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on October 16, 2008 its request dated October 14, 2008 that the Council take the following actions regarding the following (the "Project") located at 2950 Park Avenue, 635 Morris Avenue (Block 2441, Lot 1), Community District 17, Borough of the Bronx (the "Disposition Area"):

1. Approve the partial exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law;
2. Approve, pursuant to Section 125 of the PHFL, the termination of the partial tax exemption of the Exemption Area granted by the Board of Estimate on September 27, 1979 (Cal. No. 55) ("Old 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 (i) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur within one day following the termination of the Old Exemption, or (ii) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur 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 and both the obligations of the Current Owner to remain an Article V redevelopment company and the Old Exemption shall be reinstated as though they had never been interrupted.

WHEREAS, upon due notice, the Council held a public hearing on the Project on November 17, 2008;

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

**RESOLVED:**

The Council approves the partial exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

- (1) “Bond Regulatory Agreement” shall mean the regulatory agreement between HDC and the New Owner providing that, for a term of 30 years, all dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 60% of area median income.
  - (2) “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HDC and New Owner enter into the Bond Regulatory Agreement.
  - (3) “Exemption Area” shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2441, Lot 1 on the Tax Map of the City of New York.
  - (4) “Expiration Date” shall mean the earlier to occur of (i) a date which is thirty (30) years from the Effective Date, (ii) the date of the expiration or termination of the Bond 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.
  - (5) “HDFC” shall mean Maria Lopez Housing Development Fund Company, Inc.
  - (6) “HDC” shall mean the New York City Housing Development Corporation.
  - (7) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York
  - (8) “Maximum Shelter Rent Tax” shall mean \$384,018, 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.
  - (9) “New Exemption” shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.
  - (10) “New Owner” shall mean, collectively, the Housing Development Fund Corporation and the Partnership.
  - (11) “Partnership” shall mean Maria Lopez, L.P.
  - (12) “PHFL” shall mean the Private, Housing Finance Law.
- 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 or commercial use) shall be exempt from real property taxes, other than assessments for local improvements, for a period commencing upon the

Commencement 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 the Maximum Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property payment by the New Owner shall not at any time exceed the lesser of (i) seventeen percent (17%) of the contract rents, or (ii) the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule or regulation.
- d. Notwithstanding any provision hereof to the contrary:
- (1) The New Exemption shall terminate if HPD determines that (i) the housing project is not being operated in accordance with the requirements of Article XI of the PHFL, (ii) the housing project is not being operated in accordance with the requirements of the Bond Regulatory Agreement and such non-compliance constitutes an event of default under the Bond Regulatory Agreement or (iii) the demolition of an existing 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 Area shall prospectively terminate.
  - (2) The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.
- (e) In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption remain in effect, waive the benefits of any additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

The Council approves pursuant to Section 125 of the PHFL, the termination of the partial tax exemption of the Exemption Area granted by the Board of Estimate on September 27, 1979 (Cal. No. 55) ("Old Exemption"), which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.

The Council consents pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.

If (i) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur within one day following the termination of the Old Exemption, or (ii) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur 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 and both the obligations of the Current Owner to remain an Article V redevelopment company and the Old Exemption shall be reinstated as though they had never been 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 19, 2008, on file in this office.

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City Clerk, Clerk of The Council