

**MAY 03 2019**

Honorable Corey Johnson  
Speaker of the Council  
City Hall  
New York, New York 10007  
Attention: Jonathan Etricks

Re: Walton Avenue Senior Housing  
Block 2479, Lot 29  
Bronx, Community District No. 4  
Council District No. 16

Dear Mr. Speaker:

The referenced property ("Exemption Area") contains one multiple dwelling known as Walton Avenue Senior Housing which provides rental housing for low income seniors.

Walton Avenue Senior Housing Development Fund Company, Inc. ("Owner"), the owner and operator, acquired the Exemption Area in 1991. The Owner will finance the rehabilitation of the Exemption Area with a mortgage insured by the United States Department of Housing and Urban Development. The Owner and HPD will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area. Eligible tenants will receive Section 8 rental assistance.

The Exemption Area currently receives an exemption from real property taxation pursuant to Section 577 of the Private Housing Finance Law and Section 422 of the Real Property Tax Law that will expire in 2031 ("Prior Exemption"). In order to facilitate the project, the Prior Exemption must be terminated and replaced with a new exemption from real property taxation.

HPD respectfully requests that the Council approve, pursuant to Section 577 of the Private Housing Finance Law, an exemption from real property taxation as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - a. "Effective Date" shall mean the later to occur of (i) the date that HPD and the Owner enter into the Regulatory Agreement, or (ii) the date of repayment or refinancing of the HUD Mortgage.
  - b. "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2479, Lot 29 on the Tax Map of the City of New York.
  - c. "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.



- d. "Gross Rent" shall mean the gross potential rents from all residential and commercial units on the Exemption Area without regard to whether such units are occupied or vacant, including, but not limited to, Section 8, rent supplements, rental assistance, or any other subsidy.
  - e. "Gross Rent Deadline" shall mean three hundred and sixty-five (365) days from the date of the HPD letter requesting the information that HPD needs to calculate the Gross Rent Tax for the applicable tax year.
  - f. "Gross Rent Tax" shall mean, with respect to any tax year, an amount equal to ten percent (10%) of the Gross Rent in such tax year; provided, however, that if the Owner fails to provide the Gross Rent on or before the Gross Rent Deadline, Gross Rent Tax shall mean an amount equal to real property taxes that would otherwise be due in such tax year in the absence of any form of exemption from or abatement of real property taxation.
  - g. "HDFC" shall mean Walton Avenue Senior Housing Development Fund Company, Inc. or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
  - h. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
  - i. "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
  - j. "HUD Mortgage" shall mean the original loan made by HUD to the HDFC, which loan was secured by a mortgage on the Exemption Area.
  - k. "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
  - l. "Owner" shall mean the HDFC.
  - m. "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the New York City Council on September 19, 1991 (Resolution No. 1257).
  - n. "Regulatory Agreement" shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
2. The Prior Exemption shall terminate upon the Effective Date.
  3. 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.
  4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the sum of the Gross Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed 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.



5. Notwithstanding any provision hereof to the contrary:
- a. 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 Owner, all mortgagees of record, and, where there has been an unauthorized conveyance or transfer of any interest in the Exemption Area, to the new owner of such interest in the Exemption Area, 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.
  - b. 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.
  - c. Nothing herein shall entitle the HDFC, the Owner, or any other person or entity to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
  - d. All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of the Effective Date.
6. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, waive the benefits 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. Notwithstanding the foregoing, nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities.

HPD recommends approval of this matter and requests that it be referred to the appropriate committee at the next scheduled meeting of the Council.

Sincerely,  
  
Eric Enderlin

**NYC**



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