



Department of
Housing Preservation
& Development
nyc.gov/hpd

Vicki Been
Commissioner

Office of the Commissioner
100 Gold Street
New York, N.Y. 10038

NOV 17 2015

Honorable Melissa Mark-Viverito
Speaker of the Council
City Hall
New York, New York 10007
Attention: Gary Altman

Re: Fox Hill Apartments
Block 2871, Lot 1
Staten Island, Community Board No. 1
Council District No. 49

Dear Madame Speaker:

The referenced property ("Exemption Area") contains three multiple dwellings known as Fox Hill Apartments that provide rental housing for persons and families of low income. Fox Hill Partners, LLC currently owns the Exemption Area. Fox Hill Housing LLC, a New York limited liability company ("Company"), has entered into a purchase contract to acquire the Exemption Area by December 31, 2015.

Under the proposed project, HP Fox Hill Housing Development Fund Company, Inc. ("HDFC"), a housing development fund company organized pursuant to Article XI of the Private Housing Finance Law ("PHFL"), will acquire the fee interest in the Exemption Area and the Company will acquire the beneficial interest and will operate the Exemption Area. The HDFC and the Company (collectively, "Owner") will finance the acquisition and rehabilitation of the Exemption Area with low income housing tax credits and loans from the City of New York Housing Development Corporation and the City of New York Department of Housing Preservation and Development ("HPD"). The Owner and HPD will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area. Eligible tenants will receive project-based Section 8 rent subsidies.

The Exemption Area currently receives an exemption from and/or abatement of real property taxation pursuant to Section 489 of the Real Property Tax Law ("J-51 Benefits"). In order to ensure the continued affordability of the Exemption Area, HPD is requesting an Article XI exemption for the Exemption Area that will be reduced by an amount equal to any concurrent J-51 Benefits.

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

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



- (a) “Company” shall mean Fox Hill Housing LLC.
- (b) “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 Owner enter into the HPD Regulatory Agreement.
- (c) “Exemption” shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (d) “Exemption Area” shall mean the real property located in the Borough of Staten Island, City and State of New York, identified as Block 2871, Lot 1 on the Tax Map of the City of New York.
- (e) “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, (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.
- (f) “HDFC” shall mean HP Fox Hill Housing Development Fund Company, Inc.
- (g) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
- (h) “J-51 Benefits” shall mean any tax benefits pursuant to Section 489 of the Real Property Tax Law for the Exemption Area which are in effect on the Effective Date.
- (i) “Owner” shall mean, collectively, the HDFC and the Company.
- (j) “PHFL” shall mean the Private Housing Finance Law.
- (k) “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 Exemption.
- (l) “Shelter Rent” shall mean ten percent (10%) of the total rents received in the first year of the Exemption from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat, and other utilities.
- (m) “Shelter Rent Tax” shall mean an amount equal to (i) Shelter Rent, plus (ii) an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the



housing project 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.

2. 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 taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. 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 Shelter 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.
4. Notwithstanding any provision hereof to the contrary:
 - (a) The 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) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, or (v) the 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 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 Exemption shall prospectively terminate.
 - (b) The Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist on the Effective Date.
 - (c) Nothing herein shall entitle the HDPC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.



5. In consideration of the Exemption, the owner of the Exemption Area, for so long as the 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. Notwithstanding the foregoing, the J-51 Benefits shall remain in effect, but (i) the Exemption shall be reduced by the amount of such J-51 Benefits, and (ii) the Shelter Rent Tax shall not be reduced by the amount of such J-51 Benefits.

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,



Vicki Been

NYC

