

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

April 13, 2021

Re: Penn South  
212-226 9<sup>th</sup> Avenue (Block 747, Lot 1)  
311-351 West 24<sup>th</sup> Street (Block 748, Lot 1)  
250-268 9<sup>th</sup> Avenue (Block 749, Lot 1)  
313 8<sup>th</sup> Avenue (Block 749, Lot 24)  
270-296 9<sup>th</sup> Avenue (Block 751, Lot 1)  
305 9<sup>th</sup> Avenue (Block 752, Lot 1)  
Manhattan, Community District No.4  
Council District No. 3

Dear Mr. Speaker:

Mutual Redevelopment Houses, Inc. (“Penn South” or “Housing Company”) is a redevelopment company organized pursuant to Article V of the Private Housing Finance Law (“PHFL”). The Housing Company owns and operates the 2,820-unit cooperative housing development commonly known as Penn South. A majority of the residents have lived at Penn South for many years, some even since its opening in 1962. The Housing Company entered into an agreement with the City of New York (“City”), dated July 1, 1987, which superseded and replaced its original agreement with the City, dated March 25, 1959, to the extent to which the terms and conditions of the 1987 agreement differed from those contained in the original agreement, and which has been further amended to date by eight Amendatory Agreements (collectively, with all such amendments, “City Agreement”). In accordance with the City Agreement, which is set to expire on June 30, 2052, Penn South continues to maintain income restrictions, occupancy standards, and resale price limits.

On March 26, 1959 (Cal. No. 26), the Board of Estimate granted a 20-year partial tax exemption to the residential portion of the referenced property (“Exemption Area”) pursuant to PHFL Section 125. On August 20, 1981 (Cal. No. 311), the Board of Estimate extended such partial tax exemption for an additional five years. On June 30, 1987 (Cal. No. 167), the Board of Estimate approved an additional 25-years of a partial tax exemption (“1987 Resolution”), and on August 22, 2001, the Council approved an amendment to the 1987 Resolution extending the partial tax exemption for the Exemption Area for the maximum period then provided for in PHFL Section 125(1)(a-2), through June 30, 2022.

On May 6, 2011, in Resolution No. 813, the City Council approved, among other things, the Sixth Amendatory Agreement between the Housing Company and the City of New York (“City”), acting through the Commissioner of its Department of Housing Preservation and



Development (“HPD”), which agreement was executed by the parties on June 24, 2011. Section 1 of the Sixth Amendatory Agreement stated that, subject to enactment by the State of enabling legislation and further City Council action, all of the residential portion of the Exemption Area would be granted an additional real property tax exemption for eight years, from July 1, 2022, through June 30, 2030, provided that the Housing Company pay during this period taxes in an amount equal to the greater of (i) 10% of the annual rent or carrying charges of the Housing Company, minus utilities for the residential portion of the property, and (ii) the taxes paid by the Housing Company for the residential portion of the property in the City’s 2000-2001 tax year, in the total amount of \$3,477,099.00 (“Additional Tax Exemption”).

The City Council’s actions in 2011, which included permission for the Housing Company to impose an annual capital assessment and up to a fifteen percent increase in carrying charges, provided much needed financial support for the Housing Company’s replacement of its entire heating and cooling distribution systems (HVAC) from basement to roof. In return for this authority, the Housing Company agreed to remain an affordable housing project until June 30, 2030, which was an additional eight years beyond its prior expiration date of June 30, 2022.

The State Legislature enacted the necessary enabling legislation for the Additional Tax Exemption pursuant to Chapter 531 of the Laws of 2014, which added paragraph (a-4) to subdivision 1 of PHFL Section 125 (the “State Enabling Legislation”). PHFL Section 125(a-4) authorized a total of fifty years of additional tax exemption following the expiration of a previous tax exemption extension provided for Penn South by the City Council pursuant to PHFL Section 125(a-2). Due to Penn South’s location in Chelsea, an area that had experienced tremendous growth in real property values and generated real property tax increases beyond the means of the primarily low-income tenants who reside there, the Additional Tax Exemption was considered necessary for the maintenance of affordable rents and carrying charges for Penn South’s residents.

In 2015, following the enactment of the State Enabling Legislation, the City Council, by Resolution No. 658, adopted on April 16, 2015, approved a Seventh Amendatory Agreement between the Housing Company and the City, which was executed by the parties on May 8, 2015. Resolution No. 658 also provided the Council’s approval “... pursuant to Private Housing Finance Law §125(1)(a-4), [of] an additional exemption from real property taxes, other than assessments for local improvements, of all of the residential portion of the Exemption Area for a period commencing with the City’s tax year July 1, 2022 through June 30, 2023 and continuing through the City’s tax year July 1, 2029 through June 30, 2030, provided, however, that the amount of taxes to be paid during such period of tax exemption shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus the utilities for the residential portion of the project, or (ii) \$3,477,099.00, the taxes payable by the Housing Company for the residential portion of the project during the tax year commencing July 1, 2000 and ending on June 30, 2001.”

Although the State Enabling Legislation authorized an additional tax exemption for a total of fifty years, the Housing Company only sought and received from the City Council in 2015 the Additional Tax Exemption for eight years to June 30, 2030. Subsequently, however, as a precondition for providing mortgage insurance on a 35-year loan of approximately \$190,000,000 in 2017 (“2017 Loan”), the Federal Housing Administration of the United States Department of Housing and Urban Development (“HUD”) required the Housing Company to secure another extension of its tax exemption, for an additional 22 years from 2030 until June 30, 2052. HUD also required the Housing Company to secure, in addition to any other increases authorized by the City Council, (a) the Housing Company’s authority to impose carrying charge increases, at



the rate of one (1%) percent per year throughout the term of the 2017 Loan, until 2052 (“1% Carrying Charge Increases”), and (b) HUD’s discretionary authority to mandate from time to time and without any further City Council approvals, that the Housing Company increase its carrying charges if necessary for purposes of paying its expenses. All of these requirements necessitated amendments to the City Agreement which were approved by the City Council in 2017 (Resolution No. 1359) and incorporated into the Eighth Amendatory Agreement dated February 2, 2017.

At the present time, the Housing Company has been experiencing significant economic strains on its financial condition, particularly due to the effects of the COVID-19 pandemic on its commercial rental income. It now has the opportunity to update its HUD-insured mortgage financing, for an extended four-year period from its current maturity in 2052 until 2056, at a significantly lower interest rate than the rate it currently pays. The reduction will result in significant savings in the Housing Company’s annual mortgage loan costs. The proposed refinancing will also result in providing the Housing Company with additional funds needed for its capital projects. In addition to alleviating the current strain on Penn South’s financial stability, this renewed financing will also provide substantial support to enable it to continue to maintain the long-term affordability of its housing units. The extended loan will again be insured by HUD.

As a precondition to the Housing Company’s obtaining this essential financing, with its reduction in mortgage loan costs, the Housing Company has been advised by its lender to obtain a 5-year extension of the City Agreement and Penn South’s current real property tax exemption in order to assure satisfaction of HUD’s requirements for mortgage insurance. These extensions would run from the current expiration date of June 30, 2052 for both the City Agreement and the real property tax exemption, to June 30, 2057, which is one year beyond the extension of the Housing Company’s mortgage financing. The extension of the City Agreement and of Penn South’s real property tax exemption would be incorporated into a Ninth Amendatory Agreement to the City Agreement.

To further alleviate the economic impact on the Housing Company of the COVID-19 pandemic and to keep the Housing Company on a sound financial basis, Penn South is also seeking the City Council’s authority to increase the residential carrying charges paid by its tenant-cooperators. Therefore, the Housing Company also seeks the City Council’s authority to : (a) impose a 9% residential carrying charge increase, effective June 1, 2021, essentially replacing a ten-year capital assessment authorized by the City Council in 2011 (Res. No. 813) that expires on May 31, 2021, and (b) in consultation with HPD, the Housing Company’s supervisory agency, to implement further carrying charge increases in future years up to a total of 15% if, as and when needed to meet operating expenses.

The extension of the Housing Company’s City Agreement and real property tax exemption, and the authority the Housing Company is seeking to implement the carrying charge increases will result in the extension for another five years of the period during which Penn South will be able to continue to operate as an affordable housing cooperative, with all of the attendant benefits to the City’s supply of such affordable housing and to the City’s moderate income residents, thus helping to ensure Penn South’s ability to be an affordable housing resource to the City for the long term.

Pursuant to the PHFL and the Housing Company’s City Agreement, the City Council’s approval of these matters is required.



For the reasons set forth above, HPD respectfully requests that the Council:

1. Approve, pursuant to PHFL § 125(1)(a-4), an additional exemption from real property taxes, other than assessments for local improvements, of all of the residential portion of the Exemption Area for the period commencing with the City's tax year July 1, 2052 through June 30, 2053, and continuing through the City's tax year July 1, 2056 through June 30, 2057, provided, however, that the amount of taxes to be paid during such period of tax exemption shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus the utilities for the residential portion of the project, or (ii) \$3,477,099.00, the taxes payable by the Housing Company for the residential portion of the project during the tax year commencing July 1, 2000, and ending on June 30, 2001.
2. Approve, in addition to any residential carrying charge increases previously authorized by the City Council, (a) authority for the Housing Company to implement a 9% increase in its residential carrying charges, to be effective June 1, 2021, and (b) authority for the Housing Company to implement, in consultation with HPD, further increases in its residential carrying charges by up to a total of 15% in future years, if, as and when needed to meet operating expenses.
3. Approval pursuant to PHFL Section 114, the proposed Ninth Amendatory Agreement between the City of New York and the Housing Company in substantially the form submitted, incorporating provisions concerning extension of both the City Agreement and the Housing Company's tax exemption to June 30, 2057, and authorizes the Mayor or any Deputy Mayor or the Commissioner of the Department of Housing Preservation and Development to execute the Ninth Amendatory Agreement, when approved as to form by the Corporation Counsel, and direct the City Clerk or Acting City Clerk to attest to the same and to affix the seal of the City thereto.

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,



Louise Carroll  
Commissioner

cc: Mutual Redevelopment Houses, Inc.

**NYC**

