



Legislation Text

File #: Res 2102-2013, Version: *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 2102

Resolution to approve a real property partial tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), terminate a prior exemption under PHFL Section 125 and consent to the voluntary dissolution of the prior owner under PHFL 123(4) for the Exemption Area located on Block 247, Lot 1, in Community District 3, Borough of Manhattan (L.U. No. 1000; 20145224 HAM).

By Council Members Comrie and Levin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on December 2, 2013 its requests dated November 27, 2013 (the "Project") that the Council take the following actions regarding the real property located on Block 247, Lot 1, Community District 3, Borough of Manhattan (the "Exemption Area"):

Approve a partial exemption of the Exemption Area from real property taxes pursuant Private Housing Finance Law (PHFL) Section 577 (the "Tax Exemption");

Terminate, pursuant to PHFL Section 125, a prior exemption for the Exemption Area; and

Consent to, pursuant to PHFL Section 123(4), the voluntary dissolution of the current owner;

WHEREAS, upon due notice, the Council held a public hearing on the Project on December 16, 2013; and

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

RESOLVED:

The Council approves the tax exemption of the Exemption Area 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 265-275 Cherry St. (NY) Owner LP.

(2) "Current Owner" shall mean Two Bridges Associates Limited Partnership.

(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 HPD Regulatory Agreement.

- (4) “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, known as Block 247, Lot 1 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 HPD 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, or (iv) 120 days from the date of the expiration or termination of the Section 8 Housing Assistance Payments Contract or contracts under a similar or successor program, unless the New Owner or, subject to HPD approval, another housing development fund company organized pursuant to Article XI of the PHFL, has entered into a new regulatory agreement with HPD regarding rental subsidy for tenants living in the Exemption Area.
- (6) “HDFC” shall mean HP Cherry St. Housing Development Fund Company, Inc. or any future owner of the Exemption Area that is a housing development fund company.
- (7) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
- (8) “HPD 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.
- (9) “New Exemption” shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (10) “New Owner” shall mean, collectively, the HDFC and the Company.
- (11) “PHFL” shall mean the Private Housing Finance Law.
- (12) “Prior Exemption” shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on April 21, 1977 (Cal. No. 5).
- (13) “Shelter Rent” shall mean the total rents received 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.
- (14) “Shelter Rent Tax” shall mean an amount equal to five percent (5%) of Shelter

Rent.

- 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 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 the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the New 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 any 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 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 HPD 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, or (iv) 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 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 not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.
 - (3) Nothing herein shall entitle the HDFC 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 shall, for so long as the New Exemption shall 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.
2. The Council approves, 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. The Council consents, 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 Prior 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 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 December 19, 2013, on file in this office.

City Clerk, Clerk of The Council