Legislation Details (With Text)

File #:	Res 0750-2015	**Version:** *	**Name:**	LU 237 - Rose Ellen Smith MBD HDFC, Bronx
Type:	Resolution		**Status:**	Adopted
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Title: Resolution approving a partial exemption from real property taxes for property located at (Block 2744, Lot 55 and 63 and Block 2983, Lot 28) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 237).

Sponsors:

Indexes:

Attachments: 1. Housing Preservation & Development Approval Letter, 2. Memorandum, 3. June 10, 2015 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 6-10-15, 5. Minutes of the Stated Meeting - June 10, 2015

Date	Ver.	Action By	Action	Result
6/10/2015	*	Committee on Finance	P-C Item Approved by Comm	
6/10/2015	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 750

Resolution approving a partial exemption from real property taxes for property located at (Block 2744, Lot 55 and 63 and Block 2983, Lot 28) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 237).

By Council Member Ferreras-Copeland

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated April 20, 2015 that the Council take the following action regarding a housing project located at (Block 2744, Lot 55 and 63 and Block 2983, Lot 28) Bronx ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Council hereby grants an exemption from real property taxes as follows:

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

(a) "Effective Date" shall mean the date of repayment or refinancing of the HUD Mortgage.

(b) "Exemption Area" shall mean the real property located in the Borough of Bronx, City and State of New York, identified as Block 2744, Lots 55 and 63, and Block 2983, Lot 28, 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 thirty-five (35) 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) "HDFC" shall mean Rose Ellen Smith MBD Housing Development Fund Corporation.

(e) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(f) "HUD" shall mean the Department of Housing and Urban Development of the United States of America.

(g) "HUD Mortgage" shall mean the original loans made by HUD to the Exemption Area in connection with the Section 202 Supportive Housing Program for the Elderly, which loans were secured by mortgages on the Exemption Area.

(h) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.

(i) "Owner" shall mean, collectively, the HDFC and the Partnership.

(j) "Partnership" shall mean Rose Ellen Smith MBD, L.P.

(k) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on April 18, 1985 (Cal. No. 46) and May 21, 1987 (Cal. No. 22), as amended by the City Council on March 31, 2015 (Reso. Nos. 643 and 644) .

(l) "Regulatory Agreement" shall mean a regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.

(m) "Use Agreement" shall mean a use agreement by and between the Owner and HUD which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area, and requires that the housing project on the Exemption Area continue to operate on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement or any Section 8 rental assistance payments contract or any other rental housing assistance contract and all applicable federal regulations.

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 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 December 31, 2015.

4. Commencing upon January 1, 2016, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the sum of (i) $55,657, 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. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the lesser of seventeen percent (17%) of contract rents or 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) 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 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 in the Exemption Area that exists on the Effective Date.

   (c) 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.

   (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.

6. In consideration of the New Exemption, prior to or simultaneous with repayment or refinancing of the HUD Mortgage, the Owner, for itself, its successors and assigns, shall (i) execute and record a Use Agreement, (ii) execute and record a Regulatory Agreement, and (iii) waive, for so long as the New Exemption shall remain in effect, 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.

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 June 10, 2015, on file in this office.

City Clerk, Clerk of Council