Legislation Details (With Text)

File #:	Res 0443-2018	**Version:** *	**Name:**	LU 132 - Planning, La Cabana – Article XI (20185415 HAK)
Type:	Resolution		**Status:**	Adopted
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On agenda:	6/28/2018			
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Title: Resolution approving a new real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law (PHFL), the termination of a prior exemption under PHFL Section 125, and consent to the voluntary dissolution of the prior owner under PHFL Section 123(4) for property located at Block 3022, p/o Lot 16 (Tentative Lot 16) and Lot 25, Block 3031, p/o Lot 18 (Tentative Lot 18), Community District 1, Borough of Brooklyn, (Preconsidered L.U. No. 132; Non-ULURP No. 20185415 HAK).

Sponsors:

Indexes:

Attachments: 1. Resolution, 2. Land Use Calendar - Week of June 18, 2018 - June 22, 2018, 3. Land Use Calendar - June 20, 2018, 4. Hearing Transcript - Stated Meeting 6-28-18, 5. Minutes of the Recessed Stated Meeting - June 28, 2018, 6. Minutes of the Stated Meeting - June 28, 2018, 7. Committee Report

Date	Ver.	Action By	Action	Result
6/20/2018	*	Committee on Land Use	P-C Item Approved by Comm	
6/28/2018	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 443

Resolution approving a new real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law (PHFL), the termination of a prior exemption under PHFL Section 125, and consent to the voluntary dissolution of the prior owner under PHFL Section 123(4) for property located at Block 3022, p/o Lot 16 (Tentative Lot 16) and Lot 25, Block 3031, p/o Lot 18 (Tentative Lot 18), Community District 1, Borough of Brooklyn, (Preconsidered L.U. No. 132; Non-ULURP No. 20185415 HAK).

By Council Members Salamanca and Kallos

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on June 5, 2018 its request dated June 5, 2018 that the Council take the following actions regarding a new real property tax exemption for an area located at Block 3022, p/o Lot 16 (Tentative Lot 16) and Lot 25, Block 3031, p/o Lot 18 (Tentative Lot 18), Community District 1, Borough of Brooklyn, (the "Exemption Area");

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

Approve the termination of a prior tax exemption for the Exemption Area pursuant to PHFL Section 125 (the "Termination");

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

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WHEREAS, HPD's request for the Tax Exemption is related to a previously approved real property tax exemption by the Board of Estimate on December 16, 1982 (Cal. No. 21);

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption, Termination and Dissolution on June 19, 2018; and

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

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. Approve the exemption from real property taxation 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 La Cabana Apartments LLC or another entity that acquires the beneficial interest in the Exemption Area with the prior written consent of HPD.

      (2) "Contract Rent Differential" shall mean, for the year ending upon any anniversary of the Effective Date, the amount by which the total contract rents applicable to the Exemption Area for such 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 were authorized as of the Effective Date.

      (3) "Current Owner" shall mean La Cabana Associates.

      (4) "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 Regulatory Agreement.

      (5) "Exemption Area" shall mean the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 3022, p/o Lot 16 (Tentative Lot 16) and Lot 25, and Block 3031, p/o Lot 18 (Tentative Lot 18) on the Tax Map of the City of New York.

      (6) "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.

      (7) "HDFC" shall mean Cabana Apartments Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.

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

      (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) "Partial Tax Payment" shall mean, for the year ending upon each anniversary of the Effective Date, (i) $431,048, plus (ii) twenty-five percent (25%) of the Contract Rent Differential.

      (12) "PHFL" shall mean the Private Housing Finance Law.

      (13) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on December 16, 1982 (Cal. No. 21), or any exemption from real property taxation for the Exemption Area pursuant to the Private Housing Finance Law or the General Municipal Law that was in effect prior to the Effective Date.

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(14) "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.

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, 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.

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 Partial Tax Payment. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the lesser of either (a) 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, or (b) seventeen percent (17%) of the contract rents in the applicable year.

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 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 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 apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist on the Effective Date.

(3) Nothing herein shall entitle the HDFC, the New 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.

e. In consideration of the New Exemption, the owner of the Exemption Area, for so long as the New 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.

2. Approve, 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. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.

4. If the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur either (i) within one day following the termination of the Prior Exemption, or (ii) 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, the dissolution of the Current Owner shall be rescinded, 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.

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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 28, 2018, on file in this office.

……..……..
City Clerk, Clerk of The Council

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