Legislation Details (With Text)

File #:	Res 2177-2009	**Version:**	*	**Name:**	LU 1198 - Sebco Houses for the Elderly Block 2746, Lot 30 Bronx.
Type:	Resolution			**Status:**	Adopted
				In control:	Committee on Finance
On agenda:	9/17/2009				
Enactment date:				**Enactment #:**	
Title:	Resolution approving a partial exemption from real property taxes for property located at (Block 2746, Lot 30) the Bronx, pursuant to Section 577 of the Real Property Tax Law (Preconsidered L.U. No. 1198).				
Sponsors:					
Indexes:					
Attachments:	1. Memorandum, 2. Hearing Transcript - Stated Meeting 9/17/09				

Date	Ver.	Action By	Action	Result
9/17/2009	*	Committee on Finance	P-C Item Approved by Comm	
9/17/2009	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 2177

Resolution approving a partial exemption from real property taxes for property located at (Block 2746, Lot 30) the Bronx, pursuant to Section 577 of the Real Property Tax Law (Preconsidered L.U. No. 1198).

By Council Member Weprin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 17, 2009 that the Council take the following action regarding a housing project (the "Project") to be located at (Block 2746, Lot 30) the Bronx ("Exemption Area "):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of the Real Property Tax 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 held a hearing on the Project on September 17, 2007;

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

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

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

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 the Bronx, City and State of New York, identified as Block 2746, Lot 30 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 forty (40) 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 SEBCO Housing Development Fund Company, Inc.

    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 loan made by HUD to the HDFC in connection with the Section 202 Supportive Housing Program for the Elderly, which loan was secured by a mortgage on the Exemption Area.

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

    i) "Prior Exemption" shall mean the partial exemption from real property taxation for the Exemption Area approved by the Board of Estimate on April 12, 1984 (Cal. No. 43).

    j) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the HDFC which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty years from the Effective Date, and requires that (i) notwithstanding any term of the Use Agreement or another agreement to the contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is forty years from the Effective Date, (ii) in the event of a breach or a threatened breach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements, and to enjoin any acts which violate such covenants and agreements, (iii) the HDFC shall exercise any all available options to obtain and renew Rental Subsidy for eligible tenants and (iv) the HDFC shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

    k) "Rental Subsidy" shall mean Section 8 rental assistance and any similar form of rental assistance from any governmental entity.

    l) "Use Agreement" shall mean a use agreement by and between the HDFC 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 the Expiration Date.

4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the HDFC shall make real property tax payments in the sum of (i) $121,681, plus (ii) an additional amount equal to twenty-five percent 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. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC 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.

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, 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 HDFC and all mortgagees of record, which 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 not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy 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 HDFC, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, 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.

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 September 17, 2009, on file in this office.

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City Clerk, Clerk of Council