Legislation Details (With Text)

File #:	Res 2180-2009	**Version:**	*	**Name:**	LU 1201 - Section 577 of Private Housing Finance Law, Impac Houses, 1428 Fifth Ave, a/k/a 2-24 West 117th St.
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 1428 Fifth Avenue (Block 1600, Lot 20) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No 1201).

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. 2180

Resolution approving a partial exemption from real property taxes for property located at 1428 Fifth Avenue (Block 1600, Lot 20) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No 1201).

By Council Member Weprin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 3, 2009 that the Council take the following action regarding a housing project to be located at 1428 Fifth Avenue (Block 1600, Lot 20) Borough of Manhattan ("Exemption Area"):

Approve a partial 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 held a hearing on the Project on September 17, 2009;

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

RESOLVED:

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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. Approve the partial exemption of the Project from real property taxation pursuant to Section 577 of the PHFL as follows:

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

      (1) "Current Owner" shall mean Impac Associates Redevelopment Company L.P.

      (2) “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD and the New Owner enter into the Regulatory Agreement.

      (3) “Exemption Area” shall mean the real property located in the Borough of

Manhattan, City and State of New York, identified as Block 1600, Lot 20 on the Tax Map of the City of New York and shall include any tax lot created by any subdivision of such Lot 20 which occurs after July 1, 2009.

(4) “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.

(5) “HDFC” shall mean The New York City Partnership Housing Development Fund Company, Inc.

(6) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.

(7) "J-51 Program" shall mean the program of exemption from and abatement of real property taxation authorized pursuant to Real Property Tax Law §489 and Administrative Code §11-243.

(8) "Limited Liability Company" shall mean West 116th Street Associates I, LLC.

(9) "New Exemption" shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.

(10) “New Owner” shall mean, collectively, the HDFC and the Limited Liability Company.

(11) "Old Exemption" shall mean the partial exemption of the Exemption Area from real property taxation pursuant to Section 125 of the PHFL approved by the Board of Estimate on December 4, 1980 (Cal. No. 5)

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

(13) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner providing that, for the term of the New Exemption, all dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 80% of area median income.

(14) "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.

(15) “Shelter Rent Tax” shall mean an amount equal to ten percent (10%) of Shelter Rent.

b. All of the value of the property in the Exemption Area, including both the land and 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 annual 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 estate 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.

d. Notwithstanding any provision hereof to the contrary:

(1) The New Exemption shall terminate if HPD determines that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the PHFL, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement and such non-compliance constitutes an event of default under the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any regulatory agreement with or for the benefit of the City of New York, or (iv) the demolition of a 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 or to any tax lot containing such building.

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. Notwithstanding the foregoing, the Exemption Area may receive any exemption from and/or abatement of real property taxation pursuant to the J-51 Program, provided, however, that the aggregate exemption from and abatement of real property taxation pursuant to the J-51 Program in any twelve month period shall not exceed fifty percent of the Shelter Rent Tax for such twelve month period pursuant to the New Exemption.

2. Approve, pursuant to Section 125 of the PHFL, the termination of the Old 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 Old 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 and both the and Old Exemption the obligations of the Current Owner to remain an Article V redevelopment company shall be reinstated as though they had never been interrupted.

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.

_____
City Clerk, Clerk of Council

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