Legislation Details (With Text)

File #:	Res 0518-2010	**Version:**	*	**Name:**	LU 239 - ULURP, Request for approval of a voluntary dissolution, a termination of a prior tax exemption and a new tax exemption for property located on Block 2866/Lots 45, 80 and 86, Bronx (20115268HAX)
Type:	Resolution			**Status:**	Adopted
				In control:	Committee on Land Use
On agenda:	10/27/2010				
Enactment date:				**Enactment #:**	
Title:	Resolution approving a tax exemption, the termination of the prior exemption, a voluntary dissolution, and a conveyance for a Project located at Block 2866, Lots 45, 80 and 86, the Bronx, pursuant to the Private Housing Finance Law (L.U. No. 239; 20115268 HAX).				
Sponsors:	Leroy G. Comrie, Jr., Stephen T. Levin				
Indexes:					
Attachments:	1. Committee Report, 2. Hearing Transcript - Stated Meeting 10-27-10				

Date	Ver.	Action By	Action	Result
10/26/2010	*	Committee on Land Use	Approved by Committee	
10/27/2010	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 518

Resolution approving a tax exemption, the termination of the prior exemption, a voluntary dissolution, and a conveyance for a Project located at Block 2866, Lots 45, 80 and 86, the Bronx, pursuant to the Private Housing Finance Law (L.U. No. 239; 20115268 HAX).

By Council Members Comrie and Levin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on October 7, 2010 its request dated September 27, 2010 that the Council take the following actions regarding the following (the "Project") located at Block 2866, Lots 45, 80 and 86, Community District 5, Borough of the Bronx (the "Disposition Area"):

1. Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law;

2. Approve, pursuant to Section 125 of the PHFL, the termination of the prior Exemption of the Exemption Area granted by the Board of Estimate on June 11, 1981 (Cal. No. 65) (“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.

powered by Legistar™

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.

WHEREAS, upon due notice, the Council held a public hearing on the Project on October 25, 2010;

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

RESOLVED:

The Council approves the exemption of the Project from real property taxes 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) "Current Owner" shall mean Morris Heights Mews Associates, 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 HDC and the New Owner enter into the Regulatory Agreement.

(3) “Exemption Area” shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2866, Lots 45, 80 and 86 on the Tax Map of the City of New York.

(4) "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.

(5) "HDFC" shall mean Morris Heights Housing Development Fund Company, Inc.

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

(7) “HDC” shall mean the New York City Housing Development Corporation.

(8) "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.

(9) "New Exemption" shall mean the exemption from real property taxation provided

powered by Legistar™

hereunder with respect to the Exemption Area.

(10) “New Owner” shall mean, collectively, the HDFC and the Partnership.

(11) "Partnership" shall mean Morris Heights Partners, L.P.

(12) “Prior Exemption” shall mean the exemption of the Exemption Area from real property taxation pursuant to Section 125 of the PHFL approved by the Board of Estimate on June 11, 1981 (Cal. No. 65).

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

(14) "Regulatory Agreement" shall mean the regulatory agreement between HDC and the New Owner providing that, for the term of thirty-five years, all dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 60% of area median income.

(15) "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.

(16) "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of the Shelter Rent.

b. All of the value of the property, including both the land and the 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 tax exemption or abatement 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 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 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.

powered by Legistar™

(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, for so long as the New Exemption shall remain in effect, shall waive 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. 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 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.

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 October 27, 2010, on file in this office.

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

powered by Legistar™