



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1303

Resolution approving an exemption from real property taxes for property located at (Block 1675, Lot 11) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 591)

By Council Member Recchia

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated April 9, 2012 that the Council take the following action regarding a housing project (the "Project") to be located at (Block 1675, Lot 11) Manhattan ("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 held a hearing on the Project on April 18, 2012;

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:

1. For the purposes hereof, the following terms shall have the following meanings:
 - (a) "Company" shall mean East 103rd Street Associates LLC.
 - (b) "Effective Date" shall mean the date of repayment of the HUD Mortgage.
 - (c) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1675, Lot 11 on the Tax Map of the City of New York.
 - (d) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty-three (33) 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 or leased by either a housing development fund company or an entity wholly controlled by a housing development fund company.

- (e) "HDC" shall mean the New York City Housing Development Corporation.
- (f) "HDFC" shall mean East 103rd Street Housing Development Fund Corporation.
- (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (h) "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
- (i) "HUD Mortgage" shall mean the original mortgage insured by HUD pursuant to Section 221(d)(3) of the National Housing Act, as amended.
- (j) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (k) "Owner" shall mean, collectively, the HDFC and the Company.
- (l) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on December 28, 1973 (Cal. No. 1).
- (m) "Regulatory Agreement" shall mean the regulatory agreement between HDC and the Owner (i) providing that for a term of 32 years, approximately 74% of the dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 60% of area median income, and that the remaining units must be rented, upon vacancy, to families whose incomes do not exceed 100% of area median income, and (ii) in which Owner shall represent that the Exemption Area was operated in accordance with the rent and income requirements of the low income housing tax credit program and Article XI of the Private Housing Finance Law from the Effective Date to the date of execution of the Regulatory Agreement.
- (n) "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.

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- (o) "Shelter Rent Tax" shall mean an amount equal to three and two-tenths percent (3.2%) of Shelter Rent.
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 Owner shall make real property tax payments in the sum of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner 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 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 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.

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- 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, the HDFC, for itself, its successors and assigns, shall (i) execute and record the Regulatory Agreement, and (ii) 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.

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 April 18, 2012, on file in this office.

City Clerk, Clerk of Council