



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 491

Resolution approving a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), for the Exemption Area located on Block 1635, Lots 16 and 7, in Community District 11, Borough of Manhattan (L.U. No. 149; 20155178 HAM).

By Council Members Greenfield and Dickens

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on October 24, 2014 its request dated October 20, 2014 that the Council take the following actions regarding a tax exemption for real property located on Block 1635, Lots 16 and 7; Community District 11, Borough of Manhattan (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");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption on November 18, 2014; and

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

RESOLVED:

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

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Company" shall mean Lex Gardens II TP4 LLC.
 - (2) "Current Owner" shall mean Lexington Gardens Associates.
 - (3) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDLC, or (ii) the date that HPD and the New Owner enter into the HPD Regulatory Agreement.
 - (4) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1635, Lot 16 and 7 on the Tax Map of

the City of New York.

- (5) "Expiration Date" shall mean the earlier to occur of (i) a date which is five (5) years from the Effective Date, (ii) the date of the expiration or termination of the HPD 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.
 - (6) "HDFC" shall mean Lex Gardens II TP4 Housing Development Fund Company, Inc.
 - (7) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (8) "HPD Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the use of the Exemption Area during the term of the New Exemption.
 - (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) "PHFL" shall mean the Private Housing Finance Law.
 - (12) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on September 15, 1983 (Cal. No. 7).
 - (13) "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.
 - (14) "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 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.
 - 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 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 property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by any 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 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 HPD 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) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, or (v) the construction of a project 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) Nothing herein shall entitle the HDPC 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 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.
2. If (i) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur within one day following the termination of the Prior Exemption, or (ii) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur 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 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.
3. Notwithstanding anything to the contrary contained herein, if the New Owner does not close on construction financing for the development of an affordable housing project on the Exemption Area within five years from the date that the New Owner acquires the Exemption Area, the New Exemption shall be retroactively terminated as of the Effective Date.

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 November 25, 2014, on file in this office.

City Clerk, Clerk of The Council