



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1112

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), termination of a prior exemption under the PHFL Section 125, consent of the voluntary dissolution of the prior owner under the PHFL Section 123(4), and approve the conveyance to a new owner the Exemption Area located at Block 3615, Lot 1 and Block 3616, Lot 1, Community District 16, Borough of Brooklyn (L.U. No. 387; 20165586 HAK).

By Council Members Greenfield and Dickens

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on May 13, 2016 its request dated May 12, 2016 that the Council take the following actions regarding a tax exemption for real property located at Block 3615, Lot 1 and Block 3616, Lot 1, Community District 16, Borough of Brooklyn (the "Exemption Area"):

Approve an exemption of the Exemption Area from real property taxes pursuant Private Housing Finance Law (PHFL) Section 577 (the "New Exemption");

Terminate, pursuant to PHFL Section 125, a prior exemption for the Exemption Area;

Approve the conveyance of the Exemption Area from the current owner to the new owner; and

Consent to, pursuant to PHFL Section 123(4), the voluntary dissolution of the current owner;

WHEREAS, the original project was approved by the Board of Estimate on May 24, 1984 (Cal. No. 62), (the "Original Exemption");

WHEREAS, HPD submitted to the Council on May 13, 2016 its request dated May 12, 2016 relating to the tax exemption for the Exemption Area ("The HPD Request");

WHEREAS, upon due notice, the Council held a public hearing on the New Exemption on June 2, 2016;

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

RESOLVED:

The Council approves the New Exemption pursuant to Section 577) of the Private Housing Finance as follows:

1. a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Current Owner" shall mean Newport Associates, L.P.
 - (2) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (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 Brooklyn, City and State of New York, identified as Block 3615, Lot 1 and Block 3616, Lot 1 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 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 Newport Gardens Apartments Housing Development Fund Corporation.
 - (6) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (7) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - (8) "New Owner" shall mean, collectively, the HDFC and the Partnership.
 - (9) "Partnership" shall mean Newport Gardens Apartments, L.P.
 - (10) "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 May 24, 1984 (Cal. No. 62).
 - (11) "PHFL" shall mean the Private Housing Finance Law.
 - (12) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption area during the term of the New Exemption.
 - (13) "Shelter Rent Tax" shall mean an amount equal to (i) \$25,000, plus (ii) an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the Exemption Area 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.
- 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, (iv) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, or (v) the construction or 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.

(2) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist 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.

2. The Council approves, 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. The Council approves the conveyance of the Exemption Area from the Current Owner to the New Owner.

4. The Council consents, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.

5. 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 June 8, 2016, on file in this office.

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City Clerk, Clerk of The Council