



Legislation Text

File #: Res 1326-2016, Version: \*

THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 1326

**Resolution to approve an amendment to a previously approved plan and project, leasing of a portion of the referenced property and approving a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located at Block 2724, part of Lot 5 (Tentative Lot 220) and the entirety of Block 2724, Lot 103), Borough of Manhattan (L.U. No. 525; 20175118 HAX).**

**By Council Members Greenfield and Dickens**

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 9, 2016 its request dated October 31, 2016 that the Council take the following actions (i) amendment to a previously approved plan and project, (ii) the leasing of a portion of the referenced property, and (iii) a new real property tax exemption for property located at Block 2724, part of Lot 5 (Tentative Lot 220) and the entirety of Block 2724, Lot 103, (the "New Project Area"), Community District 2, Borough of the Bronx and the termination of the prior tax exemption;

WHEREAS, HPD's request is related to previously approved City Council Resolution No. 1389, L.U. No. 628, of June 13, 2012 (the "Prior Resolution");

WHEREAS, HPD submitted to the Council on November 4, 2016 its revised request dated October 31, 2016 relating to the Project (the "HPD Request");

WHEREAS, upon due notice, the Council held a public hearing on the Project on November 21, 2016; and

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Exemption Area, as defined below;

RESOLVED:

The Council approves, pursuant to Section 114 of the Private Housing Finance Law, the leasing the New Project Area from Current Owner to Lessee;

The Council approves, pursuant to Section 115 of the Private Housing Finance Law, an amendment to the plan and project for Maria Estela Houses I approved by the Board of Estimate by resolution adopted on March 6, 1980 (Cal. No. 18) (the "Plan and Project") that deletes the New Project Area from the areas described therein as follows:

1. The Plan and Project is modified by deleting from the areas described the Plan and Project a portion of Block 2724, Lot 5 ("Parcel A") and the entirety of Block 2724, Lot 103 ("Parcel B"), as shown in the

attached Schedule A and Schedule B. All references in the Plan and Project to Block 2724, Lot 5 and Block 2724, Lot 103 are modified to exclude the premises described on Schedule A and Schedule B.

The Council approves the exemption of the Project from real property taxes 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) “Effective Date” shall mean the later of (i) the date of leasehold conveyance of the Exemption Area to the Lessee, and (ii) the date that HPD and Lessee enter into the Regulatory Agreement in their respective sole discretion.
  - (b) “Exemption” shall mean the exemption from real property taxation authorized pursuant to Section 577 of Article XI of the PHFL.
  - (c) “Exemption Area” shall mean the real property located on the Tax Map of the City of New York in the Borough of the Bronx, City and State of New York, identified as Block 2724, part of Lot 5 (Tentative Lot 220) and the entirety of Block 2724, Lot 103.
  - (d) “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 or leased by either a housing development fund company or an entity wholly controlled by a housing development fund company.
  - (e) “Fee Owner” shall mean PRC Westchester Avenue LLC.
  - (f) “HDFC” shall mean Fox-Simpson Housing Development Fund Corporation.
  - (g) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
  - (h) “LLC” shall mean PRC Fox Street LLC or an affiliate.
  - (i) “Lease” shall mean the lease between Fee Owner, as landlord, and Lessee, as tenant, conveying a leasehold interest in the Exemption Area to Lessee.
  - (j) “Lessee” shall mean, collectively, the HDFC and the LLC.
  - (k) “New Project” shall mean the construction and operation of two multiple dwellings containing approximately 199 rental units plus one superintendent’s unit on the Exemption Area.
  - (l) “PHFL” shall mean the Private Housing Finance Law.
  - (m) “Plan and Project” shall mean that certain Plan and Project approved by the Board of Estimate by resolution adopted on July 17, 1980 (Cal. No. 350), which resolution amended the resolution adopted on March 6, 1980 (Cal. No. 18).
  - (n) “Prior Exemption” shall mean the exemption from real property taxation approved by Resolution No. 1389 enacted June 13, 2012.

- (o) "Regulatory Agreement" shall mean the regulatory agreement between HPD and Lessee establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
2. The Prior Exemption shall be terminated with respect to the Exemption Area, which termination shall become effective on 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. If the Lease is not executed by the Effective Date, then all of the approvals and consents set forth herein shall be null and void and the obligation of Fee Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been modified, terminated or interrupted.
  5. (a) Notwithstanding any provision hereof to the contrary, the 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 PHFL, (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 leasehold interest in the Exemption Area is conveyed to a new lessee without the prior written consent of HPD, (v) the demolition or construction of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD, or (vi) the Lease has terminated or expired and a new lease approved by HPD has not been signed. HPD shall deliver written notice of any such determination to the Lessee 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 Exemption shall prospectively terminate.  
  
(b) Nothing herein shall entitle the Lessee or Fee Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.  
  
(c) The Exemption shall not apply to any building constructed on the Exemption Area which does not have a permanent or temporary certificate of occupancy by December 31, 2021, as such date may be extended in writing by HPD.
  6. In consideration of the Exemption, (i) Lessee shall execute and record the Regulatory Agreement, and (ii) Lessee and Fee Owner, for so long as the 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.

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 December 6, 2016, on file in this office.

City Clerk, Clerk of The Council