



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 483

Resolution approving a partial exemption from real property taxes for property located at 2828 West 28th Street (Block 7011, Lot 11), Brooklyn, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 205).

By Council Member Weprin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated July 2, 2004 that the Council take the following action regarding a housing project located at 2828 West 28th Street (Block 7011, Lot 11), Borough of Brooklyn ("Exemption Area"):

Approve a partial exemption of the property in the Exemption Area from real property taxes pursuant to Section 577 of the Private Housing Finance Law ("PHFL");

WHEREAS, the Exemption Area contains a multiple dwelling that provides 121 units of rental housing for persons of low income, plus one unit for a superintendent ("Project");

WHEREAS, Sea Park North Housing Development Fund Corporation ("Sponsor"), a housing development fund company organized pursuant to Article XI of the PHFL, will acquire the Exemption Area;

WHEREAS, Sea Park North L.P. ("Partnership"), a limited partnership whose sole general partner is controlled by the Sponsor, will operate the Project and the Sponsor will control both the Partnership and the Project;

WHEREAS, the Sponsor and the Partnership (collectively, "Owner") will finance the acquisition and rehabilitation of the Project with a private loan and low income housing tax credits;

WHEREAS, the Council held a hearing on the Project on July 21, 2004;

WHEREAS, the Council has considered the financial implications relating to the tax exemption requested by HPD;

RESOLVED:

The Council hereby grants an exemption 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. "Commencement Date" shall mean the date of acquisition of the Project by the Sponsor.
 - b. "Shelter Rent" shall mean the total rents and other income received from the commercial and residential occupants of the Exemption Area, including any federal rent 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.
 - c. "Maximum Shelter Rent Tax" shall mean ten percent of the annual Shelter Rent.
 - d. "Exemption Area" shall mean the real property located in the Borough of Brooklyn, City and State of New York,

and identified as Block 7011, Lot 11 on the Tax Map of the City of New York.

- e. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Commencement Date, (ii) the date upon which the Exemption Area ceases to be owned by the Sponsor or, subject to HPD approval, another housing development fund company, (iii) the date upon which the Partnership or any successor of the Partnership ceases to be controlled by a housing development fund company, (iv) the expiration or termination of the DHCR Regulatory Agreement, or (v) the date upon which the Owner fails to comply with the annual reporting requirements specified in Paragraph 4 hereof.
 - f. "Actual Rent Roll" shall mean the maximum total income based on the actual rents charged to the occupants of the Exemption Area, and including residential and commercial rents, parking and other income, and any federal rent subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), that would be received from the Exemption Area if there were no vacancies or collection losses.
 - g. "DHCR" shall mean the State of New York Division of Housing and Community Renewal.
 - h. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - i. "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
 - j. "Partial Tax Payment Commencement Date" shall mean a date which is twenty-four (24) months from the Commencement Date.
 - k. "Partnership" shall mean Sea Park North, L.P.
 - l. "DHCR Regulatory Agreement" shall mean the regulatory agreement for this Project entered into between DHCR and the Partnership.
 - m. "Sponsor" shall mean Sea Park North Housing Development Fund Corporation.
 - n. "Tax Credit Rent Roll" shall mean \$13,615.00, plus the maximum income that would be generated by the Exemption Area if there were no vacancies or collection losses in the residential rental units in the Exemption Area and the rent for each residential rental unit were set at the maximum level permissible for respective unit and family sizes under the federal low income housing tax credit program established pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, or any successor statute, and under the terms set forth in the DHCR Tax Credit Reservation Letter dated July 30, 2003. The Tax Credit Rent Roll shall be calculated annually by HPD, based on the New York primary metropolitan statistical area median income published by HUD, as the same may be adjusted from time to time, less the applicable Utility Allowance.
 - o. "Utility Allowance" shall mean an amount equal to the estimate made or approved by a public housing agency or HUD (under applicable sections of the regulations contained at 24 Code of Federal Regulations Parts 880, 881, 882, 883, 884, 885, and 886) of the monthly costs of a reasonable consumption of such utilities (except telephones) and other services for the dwelling unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary and healthful living environment.
2. All of the value of the property in the Exemption Area, including both the land and any improvements, shall be exempt from real property taxes, other than assessments for local improvements, for a period commencing upon the Commencement Date and terminating upon the Expiration Date.
3. Commencing upon the Partial Tax Payment Commencement Date, and during each year thereafter until the Expiration Date, the Owner shall make real estate tax payments in the sum of 65% of the amount by which the Actual Rent Roll exceeds the Tax Credit Rent Roll. Notwithstanding the foregoing, the total annual real estate tax payment by the Owner shall not at any time exceed the lesser of (i) the amount of real estate taxes that would otherwise be due and payable 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, or (ii) the Maximum Shelter Rent Tax.

4. The Owner shall submit to HPD annually, within one hundred and twenty (120) days after the end of the Partnership's fiscal year, (i) annual financial statements for the applicable tax period that have been audited by an independent certified public accountant, and (ii) an income and expense statement, in a form approved by HPD, that is certified by an independent certified public accountant.
5. In consideration of the tax exemption provided hereunder, the Owner, for so long as the partial tax exemption hereunder shall remain in effect, shall waive the benefits, if any, of 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.
6. Notwithstanding anything contained herein to the contrary, the partial tax exemption hereunder shall not take effect until HPD approves the Sponsor.

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 July 21, 2004, on file in this office.

City Clerk, Clerk of Council