



Legislation Text

File #: Res 1266-2005, **Version:** *

Res. No. 1266

Resolution to approve a Fifth Amendatory Agreement to the Contract between the City of New York and Mutual Redevelopment Houses, Inc., to authorize the Mayor or any Deputy Mayor or the Commissioner of Housing Preservation and Development to execute the Fifth Amendatory Agreement when approved as to form by the Corporation Counsel and to direct the City Clerk to attest to the same and to affix the seal of the City thereto.

By Council Members Quinn, Comrie and Nelson

Whereas, Mutual Redevelopment Houses, Inc. (also known as "Penn South" or "Housing Company") is a redevelopment company organized under Article 5 of the Private Housing Finance Law ("PHFL"); and

Whereas, The PHFL requires a contract between the municipality and the Housing Company; and

Whereas, In 1962, the City of New York and the Housing Company entered into a contract under which the Housing Company agreed to operate as a limited equity, non-profit housing cooperative for twenty-five years; and

Whereas, On July 1, 1987 this original contract expired and an amendatory contract (the "Contract") was approved by the Board of Estimate; and

Whereas, The Contract and the PHFL require the Housing Company to apply to the Council of the City of New York ("Council"), which has jurisdiction over these matters, for authorization to further amend the Contract; and

Whereas, The Council has previously approved applications by the Housing Company to approve amendments to the Contract; and

Whereas, The Housing Company, with the approval of the Council in the Fourth Amendatory Agreement, established a program imposing a one-time capital assessment to be paid by purchasers of the stock

and occupancy agreements on the first sale of shares of each apartment after the effective date of the program, which doubled the equity required of a new purchaser, and which requires the proceeds of such capital assessment to be used for capital improvement projects at Penn South; and

Whereas, The Housing Company, in light of such one-time capital assessments, seeks to facilitate the purchase of apartments at Penn South by low- and moderate- income New Yorkers and to keep the Housing Company's affordable cooperative housing available to them, by making it feasible for would-be purchasers of such apartments to obtain loans from institutional lenders to finance the additional equity required to be paid by such purchasers and to secure such loans by granting security interests in their stock and occupancy agreements that represent their ownership of their apartments to lenders approved by the Housing Company in accordance with guidelines set forth in the proposed Fifth Amendatory Agreement, (which is annexed), as such guidelines may be changed from time to time with the written consent of the New York City Department of Housing Preservation and Development ("HPD") and the approval of the Council; and

Whereas, In order for these lenders to be willing to provide loans to finance purchases of cooperative apartments at Penn South, lenders will require assurance of their ability to enforce their rights in court, in the event of a borrower's default on such a loan, by being able, without requiring HPD's consent, to commence proceedings to acquire the rights of ownership and occupancy of such apartments, subject to all restrictions applicable to tenant/cooperators at Penn South on the transfer of that stock and occupancy agreements; and

Whereas, The Housing Company is seeking permission to amend its Contract, pursuant to a Fifth Amendatory Agreement, (1) to revise Subparagraph (a) of Paragraph 209 of the Contract (entitled "Primary Residency") so as to permit secured loans to finance purchases of stock in the Housing Company and occupancy agreements, representing ownership of cooperative apartments at the Housing Company; and (2) to add a provision to Paragraph 211 of the Contract (entitled "Evictions") pertaining to procedures for evictions, so as to enable lenders to commence legal proceedings to evict tenant/cooperator-borrowers who default on their loans secured by such stock and occupancy agreement (proprietary leases); and

Whereas, The Fifth Amendatory Agreement revises Subparagraph (a) of Paragraph 209 of such Contract to permit secured loans to finance purchases by qualified applicants of stock and occupancy agreements, representing ownership interests in cooperative apartments at Penn South, in accordance with guidelines that will be subject to revision with the written permission of HPD and the approval of the Council; and

Whereas, The Fifth Amendatory Agreement modifies Paragraph 211 of such Contract, pertaining to procedures for eviction from Penn South, so as to permit lenders of defaulted borrowers to commence such legal proceedings, in the case of loans approved in accordance with the guidelines provided for in Paragraph 209, without requiring HPD's approval; now, therefore, be it

Resolved, That the Council of the City of New York hereby approves a Fifth Amendatory Agreement to the Contract between the City of New York and Mutual Redevelopment Houses, Inc., to authorize the Mayor or any Deputy Mayor or the Commissioner of Housing Preservation and Development to execute the Fifth Amendatory Agreement when approved as to form by the Corporation Counsel and to direct the City Clerk to attest to the same and to affix the seal of the City thereto.

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