



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 303

Resolution approving a new partial tax exemption from real property taxes for property located at 160 West 116th Street, (Block 1825, Lot 59), Manhattan, pursuant to Section 577 of the Private Housing Finance Law.

By Council Member Weprin

WHEREAS, The New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated May 3, 2006 that the Council take the following action regarding a property located at 160 West 116th Street, (Block 1825, Lot 59) Borough of Manhattan ("Exemption Area"):

Approve a new exemption on substantially the same terms as the original 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 nine-story building that provides 88 units of rental housing for elderly persons of low income, plus one unit for a superintendent ("Project"); and

WHEREAS, Canaan Housing Development Fund Corporation ("Sponsor") developed the Project under the Section 202 Supportive Housing Program for the Elderly with financing and operating subsidies from the United States Department of Housing and Urban Development ("HUD") and a partial tax exemption from the City approved by the Board of Estimate on December 3, 1981 (Cal. No. 11) (the "Approval"); and

WHEREAS, The Sponsor wishes to refinance its original HUD mortgage to fund certain physical improvements, pay past due expenses, decrease debt service costs, and facilitate provision of additional services to tenants; and

WHEREAS, In connection with such refinancing, Sponsor and HUD will execute a Use Agreement, which requires Sponsor to continue to operate the Project on terms at least as advantageous to existing and future tenants as required by the original Section 202 loan agreement or any Section 8 rental assistance payments contract; and

WHEREAS, Under the terms of the Approval, the proposed refinancing would terminate the tax exemption; and

WHEREAS, The Council held a hearing on the Project on May 10, 2006; and

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

RESOLVED:

The Council hereby grants a new exemption, on substantially the same terms as the original 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. “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, known as Block 1825, Lot 59 on the Tax Map of the City.
 - b. “Sponsor” shall mean the Canaan Housing Development Fund Corporation.
 - c. “HUD” shall mean the Department of Housing and Urban Development of the United States of America.
 - d. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - e. “Prior Exemption” shall mean the partial exemption from real property taxes approved by the Board of Estimate on December 3, 1981 (Cal. No. 11) with respect to the Exemption Area.
 - f. “New Exemption” shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.
 - g. “Effective Date” shall mean the date of repayment or refinancing of the HUD Mortgage.
 - h. “Expiration Date” shall mean the earlier to occur of (i) a date which is thirty-five (35) years from the Effective Date, or (ii) the date upon which the Regulatory Agreement ceases to bind all parties in interest to the Exemption Area.
 - i. “HUD Mortgage” shall mean the original loan made by HUD to Sponsor in connection with the Section 202 Supportive Housing Program for the Elderly, which loan is secured by a mortgage on the Exemption Area.
 - j. “Rental Subsidy” shall mean Section 8 rental assistance and any similar form of rental assistance from any governmental entity.
 - k. “Use Agreement” shall mean a use agreement by and between Sponsor and HUD which commences on or before the Effective Date, runs with the land, binds all subsequent not-for-profit owners and creditors of the Exemption Area, and requires that the housing project on the Exemption Area continue to operate on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement or any Section 8 rental assistance payments contract or any other rental housing assistance contract and all applicable federal regulations.
 - l. “Regulatory Agreement” shall mean a regulatory agreement by and between Sponsor and HPD which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is thirty-five (35) years from the Effective Date, and requires that (i) notwithstanding any term of the Use Agreement or any other agreement to the

contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is thirty-five (35) years from the Effective Date, (ii) in the event of a breach or a threatened breach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements, (iii) the Sponsor shall exercise any and all available options to obtain and renew Rental Subsidy for eligible tenants, and (iv) the Sponsor shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

2. The Prior Exemption shall terminate upon the Effective Date.
3. All of the value of the property in the Exemption Area, including both the land and improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxes, other than assessments for local improvements, commencing upon the Effective Date and terminating upon the Expiration Date; provided, however, that the Sponsor shall make an annual real property tax payment commencing upon the Effective Date and terminating upon the Expiration Date,
4. Commencing upon the Effective Date and during each year thereafter until the Expiration Date, the Sponsor shall make real property tax payments in the sum of (i) \$117,821 plus (ii) an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the housing project 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. Notwithstanding the foregoing, the total annual real property tax payment by the Sponsor shall not at any time exceed the lesser of either (i) seventeen percent (17%) of the contract rents, or (ii) the amount of real property 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.
5. In consideration of the New Exemption, prior to or simultaneous with repayment or refinancing of the HUD Mortgage, Sponsor, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) waive, for so long as the New Exemption shall remain in effect, the benefits, if any, of additional or concurrent real property tax abatement and/or real property tax exemption 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 July 21, 2004, on file in this office.

City Clerk, Clerk of Council