



Legislation Text

File #: Res 1966-2009, Version: *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1966

Resolution approving a partial exemption from real property taxes for property located at (Block 746, Lots 28, 30, 39) and (Block 755, Lot 39), Brooklyn, pursuant to Section 577 of the Real Property Tax Law (Preconsidered L.U. No. 1096).

By Council Member Weprin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated March 3, 2009 that the Council take the following action regarding a housing project to be located at (Block 746, Lots 28, 30, 39) and (Block 755, Lot 39), Brooklyn ("Exemption Area"):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of the Real Property Tax Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on May 6, 2009;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - (a) "Effective Date" shall mean the date of repayment or refinancing of the HUD Mortgage.
 - (b) "Exemption Area" shall mean the real property located in the Borough of Queens, City and State of New York, identified as Block 746, Lots 28, 30, and 39; and Block 755, Lot 39 on the Tax Map of the City of New York.
 - (c) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty 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.

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- (d) “HDFC” shall mean Marien-Heim of Sunset Park Housing Development Fund Corporation.
- (e) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
- (f) “HUD” shall mean the Department of Housing and Urban Development of the United States of America.
- (g) “HUD Mortgage” shall mean the original loan made by HUD to the HDFC in connection with the Section 202 Supportive Housing Program for the Elderly, which loan is secured by a mortgage on the Exemption Area.
- (h) "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (i) "Prior Exemption" shall mean the partial exemption from real property taxation for the Exemption Area approved by the Board of Estimate on September 28, 1978 (Cal. No. 138).
- (j) “Rental Subsidy” shall mean Section 8 rental assistance and any similar form of rental assistance from any governmental entity.
- (k) “Regulatory Agreement” shall mean the regulatory agreement between HPD and the HDFC 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 forty 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 forty 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 HDFC shall exercise any and all available options to obtain and renew Rental Subsidy for eligible tenants, and (iv) the HDFC shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

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- (l) “Use Agreement” shall mean a use agreement by and between the HDFC 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.
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 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; provided, however, that the HDFC shall make an annual real estate 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 HDFC shall make real property tax payments in the sum of (i) \$373,804, plus (ii) an additional amount equal to twenty-five percent 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 HDFC shall not at any time exceed the lesser of either (i) seventeen percent of the contract rents, or (ii) 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 any existing or future local, state, or federal law, rule or regulation.
5. Notwithstanding any provision hereof to the contrary:
 - (a) 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, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has

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commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

- (b) The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.

6. In consideration of the New Exemption, prior to or simultaneous with repayment or refinancing of the HUD Mortgage, the HDFC, 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 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 May 6, 2009, on file in this office.

City Clerk, Clerk of Council