



Legislation Text

File #: Res 2305-2009, Version: *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 2305

Resolution approving a partial exemption from real property taxes for property located at (Block 341, Lot 1) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1294).

By Council Member Weprin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated November 16, 2009 that the Council take the following action regarding a housing project to be located at (Block 341, Lot 1) Borough of Manhattan ("Exemption Area "):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of Private Housing Finance 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 December 21, 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 on which the Secretary of HUD certifies on the New Mortgage Loan Note that the total sum of the New Mortgage Loan has been approved for insurance .
 - b. "Exemption Area" shall mean the real property located in the County, City, and State of New York and identified as Block 341, Lot 1 on the Tax Map of the City.
 - c. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date upon which the Use Agreement ceases to bind all parties in interest

to the Exemption Area, (iii) the date upon which the Regulatory Agreement ceases to bind all parties in interest to the Exemption Area, or (iv) 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. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- e. "HUD" shall mean the United States Department of Housing and Urban Development.
- f. "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.
- g. "New Mortgage" shall mean the HUD mortgage loan, with Federal Housing Administration loan number 012-35696, that is insured pursuant to Section 221 (d)(3) of the National Housing Act, as amended.
- h. "New Mortgage Loan Note" shall mean the mortgage loan note made by the Owner for the New Mortgage.
- i. "Owner" shall mean Southeast Grand Street Guild Housing Development Fund Company, Inc.
- j. "Prior Exemption" shall mean the partial exemption from real property taxation approved by the Board of Estimate on December 3, 1970 (Cal. No. 2-A) with respect to the Exemption Area.
- k. "Prior Mortgage" shall mean the original loan to Owner secured by a mortgage on the Exemption Area that was insured under Section 236 of the National Housing Act, as amended.
- l. "Regulatory Agreement" shall mean an agreement by and between HPD and Owner 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 (40) years from the Effective Date, and requires, *inter alia*, 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 (40) years from the Effective Date, (ii) in the event of a breach or a threatened beach 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 Owner shall exercise any and all available options to renew Rental Subsidy for eligible tenants, and (iv) the Owner shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.
- m. "Rental Subsidy" shall mean a Section 8 Housing Assistance Payments Contract and any similar form of rental assistance from any governmental entity.
- n. "Use Agreement" shall mean an agreement between HUD and the Owner which

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commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that the Exemption Area continue to use Rental Subsidy and that all existing dwelling units in the

Exemption Area must be rented to families whose incomes comply with the income restrictions of Section 236 of the National Housing Act, as amended.

- o. "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal 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.

- p. "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of the Shelter Rent, but in no event less than \$152,765.00 per annum.
- 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 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. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the amount of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real estate taxes that would otherwise be due 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. 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 commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the record owner of the Exemption Area 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 New Exemption shall prospectively terminate.

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- 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.
- c. Nothing herein shall entitle the 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.
- 6. In consideration of the New Exemption, on or before the Effective Date, the Owner, 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 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.

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 21, 2009, on file in this office.

City Clerk, Clerk of Council

