



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 64

Resolution approving a partial exemption from real property taxes for property located at (Block 1629, Lot 1) Brooklyn, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 37).

By Council Member Recchia

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated February 22, 2010 that the Council take the following action regarding a housing project to be located at (Block 1629, Lot 1) Brooklyn, ("Exemption Area"):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of the 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 March 3, 2010;

**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 that HDC and the HDFC enter into the amendment to the HDC Regulatory Agreement extending the income restrictions to be coterminous with the new mortgage loan term.
  - (b) "Exemption Area" shall mean the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 1629, Lot 1 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 thirty-two (32) years from the Effective Date, (ii) the date of the expiration or termination of the HDC 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.

(d) "HDC" shall mean the New York City Housing Development Corporation.

**Page 2 of 3**

**Reso. No. 64 (Preconsidered L.U. No. 37)**

(e) "HDC Regulatory Agreement" shall mean that tax credit regulatory agreement entered into on September 19, 2003 between HDC and the HDFC, which provides that (i) 10% of the dwelling units in the Exemption Area will be reserved for occupancy by households whose incomes do not exceed 115% of area median income, (ii) 20% of the dwelling units in the Exemption Area will be reserved for occupancy by households whose incomes do not exceed 80% of area median income, and (iii) the remainder of the dwelling units in the Exemption Area, other than two dwelling units occupied by building superintendents, will be reserved for occupancy by households whose incomes do not exceed 60% of area median income.

(f) "HDFC" shall mean 745 Gates Housing Development Fund Corporation.

(g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(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 exemption from real property taxation for the Exemption Area pursuant to §420-c of the Real Property Tax Law approved by HPD on December 11, 2003.

(j) "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.

(k) "Shelter Rent Tax" shall mean an amount equal to two and sixty-five hundredths percent (2.65%) of Shelter Rent, but in no event less than seventy-seven thousand dollars (\$77,000) 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 (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.

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 the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.

**Page 3 of 3**

**Reso. No. 64 (Preconsidered L.U. No. 37)**

5. Notwithstanding any provision hereof to the contrary:

a. The New Exemption shall terminate if HPD determines at any time 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 HDC 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 owner 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.

- 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 HDFC 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, the owner of the Exemption Area, for so long as the New Exemption shall remain in effect, shall waive 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 March 3, 2010, on file in this office.

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City Clerk, Clerk of Council