



Legislation Text

File #: Res 0358-2010, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 358

Resolution approving the termination of a tax exemption and a voluntary dissolution for a Project located at Block 2026, Lot 1, Borough of Manhattan, pursuant to the Private Housing Finance Law (Preconsidered L.U. No. 134; 20105714 HAM).

By Council Members Comrie and Levin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on May 24, 2010 its request dated May 17, 2010 that the Council takes the following actions regarding the following project (the "Project") located at Block 2026, Lot 1, Community District 10, Borough of Manhattan (the "Exemption Area"):

1. Approve, pursuant to Section 577 of the PHFL, an exemption of the Project from real property taxation.
2. Approve, pursuant to Section 125 of the PHFL, the termination of the partial tax exemption of the Exemption Area which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.
3. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.
4. If the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur either (i) within one day following the termination of the Prior Exemption, or (ii) on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void and both the obligations of the Current Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been interrupted.

WHEREAS, upon due notice, the Council held a public hearing on the Project on June 15, 2010;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Project;

RESOLVED:

The Council approves the exemption of the Project from real property taxation pursuant to Section 577 of the PHFL as follows:

- a. For the purposes hereof, the following terms shall have the following meanings:

- (1) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the earlier of the date that the New Owner enters into either the HPD Regulatory Agreement or the HDC Regulatory Agreement.
- (2) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 2026, Lot 1, on the Tax Map of the City of New York.
- (3) "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 HPD Regulatory Agreement, (iii) the date of the expiration or the termination of the HDC Regulatory Agreement, 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.
- (4) "HDFC" shall mean MZ Housing Development Fund Company, Inc.
- (5) "HDC" shall mean the New York City Housing Development Corporation.
- (6) "HDC Regulatory Agreement" shall mean the regulatory agreement between HDC and the New Owner providing that, for a term commencing upon the execution thereof and terminating 30 years after the completion of the rehabilitation of the Exemption Area, all dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 60% of area median income.
- (7) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (8) "HPD Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner providing that, from the date of execution thereof until the Expiration Date, all dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 60% of area median income.
- (9) "LP" shall mean MZ 2640 Owner L.P.
- (10) "Maximum Shelter Rent Tax" shall mean \$94,944, plus an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the Exemption Area 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.
- (11) "New Exemption" shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.
- (12) "New Owner" shall mean, collectively, the HDFC and the LP.
- (13) "PHFL" shall mean the Private Housing Finance Law.

- (14) "Prior Exemption" shall mean that certain partial exemption from real property taxation pursuant to Section 125 of the PHFL granted by the Board of Estimate on April 29, 1982 (Cal. No. 86).
- b. 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 taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
- c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the owner of the Exemption Area shall make real property tax payments in the sum of the Maximum Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the lesser of (i) seventeen percent (17%) of the contract rents, or (ii) the amount of real estate 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.
- d. Notwithstanding any provision hereof to the contrary:
- (1) The New Exemption shall terminate if HPD determines that (i) the housing project is not being operated in accordance with the requirements of Article XI of the PHFL, (ii) the housing project is not being operated in accordance with the requirements of the HPD Regulatory Agreement, (iii) the housing project is not being operated in accordance with the requirements of the HDC Regulatory Agreement, (iv) 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 (v) 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 New 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.
- (2) 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.
- (3) Nothing herein shall entitle the HDFO to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
- e. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, 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.

The Council approves, pursuant to Section 125 of the PHFL, the termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.

The Council consents, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.

If the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur either (i) within one day following the termination of the Prior Exemption, or (ii) on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void, the dissolution of the Current Owner shall be deemed rescinded and of no force and effect, and the obligations of the Current Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been terminated or interrupted.

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 June 29, 2010, on file in this office.

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City Clerk, Clerk of The Council