

**MAY 30 2017**

Honorable Melissa Mark-Viverito  
Speaker of the Council  
City Hall  
New York, New York 10007  
Attention: Gary Altman

Re: FH Homes  
Block 1057, Lot 13  
Block 2129, Lot 46  
Manhattan  
Community District No. 4 & 12  
Council District No. 3 & 10

Dear Madame Speaker:

The referenced property ("Exemption Area") contains two multiple dwellings known as FH Homes which provide rental housing for elderly persons of low income.

Fountain House, Inc. developed both buildings separately 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 tax exemptions from the City. FH Homes Housing Development Fund Corporation ("HDFC") will acquire the Exemption Area and the two original HUD mortgages will be refinanced with one Section 223(f) insured mortgage loan to fund needed repairs and meet other financial obligations. In conjunction with the refinancing, the HDFC and HUD will execute a Use Agreement with respect to one of the multiple dwellings in the Exemption Area which, among other things, requires the HDFC to continue to operate that multiple dwelling in the Exemption Area 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 payment contract and all applicable federal regulations. The HDFC and the City of New York Department of Housing Preservation and Development ("HPD") also will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area.

On February 26, 1981 (Cal. No. 4) and January 8, 1987 (Cal. No. 15), the Board of Estimate of the City of New York approved partial tax exemptions for the Exemption Area ("Prior Exemptions"). Under the terms of the approval of the Prior Exemptions, the proposed refinancing will terminate the Prior Exemptions. HPD is requesting a new exemption from real property taxation for the Exemption Area that is coterminous with the 35-year term of the new mortgage loan. This action will enable the HDFC to continue to operate the Exemption Area as rental housing for elderly persons of low income.

HPD respectfully requests that the Council approve, pursuant to Section 577 of the Private Housing Finance Law, an exemption from real property taxation as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - (a) "Effective Date" shall mean the later of (i) the date of the conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the Owner enter into the Regulatory Agreement.



- (b) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1057, Lot 13 and Block 2129, Lot 46 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-five (35) 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.
- (d) "Gross Rent" shall mean the gross potential rents from all residential and commercial units (both occupied and vacant) of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance).
- (e) "Gross Rent Tax" shall mean an amount equal to fourteen percent (14%) of the Gross Rent in the tax year in which such real property tax payment is made.
- (f) "HDFC" shall mean FH Homes Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
- (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (h) "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
- (i) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (j) "Owner" shall mean the HDFC.
- (k) "Prior Exemptions" shall mean the exemptions from real property taxation for the Exemption Area approved by the Board of Estimate of the City of New York on February 26, 1981 (Cal. No. 4) and January 8, 1987 (Cal. No. 15).
- (l) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
- (m) "Use Agreement" shall mean a use agreement by and between the Owner and HUD which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Use Agreement Exemption Area, and requires that the housing project on the Use Agreement 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.
- (n) "Use Agreement Exemption Area" shall mean that portion of the Exemption Area that is subject to the Use Agreement.

2. The Prior Exemptions 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, commercial or community facility 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 Owner shall make real property tax payments in the sum of the Gross 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 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.
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 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, (iv) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 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 apply to all land in the Exemption Area, but shall only apply to the buildings on the Exemption Area that exist on the Effective Date.
  - (c) Nothing herein shall entitle the HDFC, the Owner or any past 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.
  - (d) All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of the Effective Date.
6. In consideration of the New Exemption, prior or simultaneous with repayment or refinancing of the HUD Mortgages, the owner, for itself, its successors and assigns, shall (i) execute and record the Use Agreement, and (ii) 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.

HPD recommends approval of this matter and requests that it be referred to the appropriate committee at the next scheduled meeting of the Council.

Sincerely,



Maria Torres-Springer

**NYC**

