



Department of
Housing Preservation
& Development
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MARIA TORRES -SPRINGER
Commissioner

Office of the Commissioner
100 Gold Street
New York, N.Y. 10038

February 17, 2017

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

Re: Notre Dame Apartments
Block 3085, Lot 45
Bronx, Community District No. 6
Council District No. 15

Dear Madame Speaker:

The referenced property ("Exemption Area") contains one five-story building known as Notre Dame Apartments that provides 97 units of rental housing for elderly persons of low income, plus one unit for a superintendent.

Notre Dame Housing Development Fund Company, Inc. ("HDFC") developed the project 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 a partial tax exemption from the City. In 2005, the HDFC refinanced the original HUD mortgage with a HUD-insured private loan to fund needed repairs, decrease debt service costs, and facilitate the provision of additional services to tenants. In conjunction with the 2005 refinancing, the HDFC and HUD executed a Use Agreement which, among other things, required that the HDFC would continue to operate 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 also entered into a regulatory agreement with the Department of Housing Preservation and Development ("HPD") in connection with the 2005 refinancing which, among other things, required the Exemption Area to remain subject to the terms of the Use Agreement for 35 years.

The HDFC now wishes to refinance its current mortgage with a new HUD-insured private loan in order to fund necessary improvements, further decrease debt service costs, fund the replacement reserve account, and increase annual reserve deposits. The HDFC and HPD will enter into a new regulatory agreement establishing certain controls upon the operation of the Exemption Area.

On June 17, 2003 (Resolution No. 945), the Council approved a partial tax exemption for the Exemption Area ("Prior Exemption"). In order to facilitate the project, the Prior Exemption must be terminated and replaced with a new exemption from real property taxation that is coterminous with the 35-year term of the new mortgage loan.

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 date of repayment or refinancing of the Existing Loan.
 - (b) "Exemption Area" shall mean the real property located in the Borough of Bronx, City and State of New York, identified as Block 3085, Lot 45 on the Tax Map of the City of New York.
 - (c) "Existing Loan" shall mean the HUD-insured private loan made on January 7, 2005 in connection with the Section 202 Supportive Housing program for the Elderly, which loan was secured by a mortgage on the Exemption Area.
 - (d) "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.
 - (e) "Gross Residential Rent" shall mean the gross potential rents from all residential 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).
 - (f) "Gross Rent Tax" shall mean an amount equal to ten percent of Gross Residential Rent.
 - (g) "HDFC" shall mean Notre Dame Housing Development Fund Company, Inc.
 - (h) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (i) "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
 - (j) "New Exemption" shall mean a partial exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - (k) "Owner" shall mean the HDFC or any future owner of the Exemption Area.
 - (l) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the City Council on June 17, 2003 (Cal No. 945).
 - (m) "Regulatory Agreement" shall mean a regulatory agreement between HPD and the Owner executed on or after the Effective Date establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
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, 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 pay the Gross Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the lesser of either (i) seventeen percent (17%) of the contract rents, or (ii) 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) the Exemption Area is conveyed 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 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 apply to all land in the Exemption Area, but shall only apply to a building in the Exemption Area that exists 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.
- (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, the Owner of the Exemption Area shall, for itself, its successors and assigns, (i) execute and record a Regulatory 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

