



Department of
Housing Preservation
& Development
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VICKI BEEN
Commissioner

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

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

February 29, 2016

Re: Montauk Apartments
Block 12457, Lot 2
Block 12458, Lots 5 and 421
Queens, Community District No. 12
Council District No. 27

Dear Madame Speaker:

The referenced property ("Exemption Area") contains one hundred twenty eight apartments, inclusive of one superintendents units known as Montauk Apartments which provide rental housing for elderly persons of low income.

Under the proposed project, HP Montauk Apartments Housing Development Fund Company, Inc. ("HDFC"), a housing development fund company organized pursuant to Article XI of the Private Housing Finance Law ("PHFL"), will acquire the fee interest in the Exemption Area and Montauk Housing LLC, a New York limited liability company ("Company") will acquire the beneficial interest and will operate the Exemption Area. The HDFC and the Company (collectively, "New Owner") will finance the acquisition of the Exemption Area with a private loan. The New Owner and the City of New York Department of Housing Preservation and Development ("HPD") will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area. Eligible tenants will continue to receive project-based Section 8 rent subsidies.

The Exemption Area currently does not receive any exemption from real property taxation. In order to ensure the continued affordability of the Exemption Area, 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) "Company" shall mean Montauk Housing LLC.
- (b) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the Owner enter into the Regulatory Agreement.
- (c) "Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (d) "Exemption Area" shall mean the real property located in the Borough of Queens, City and State of New York, identified as Block 12457, Lot 2 and Block 12458, Lots 5 and 421 on the Tax Map of the City of New York.

- (e) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) 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.
 - (f) "HDFC" shall mean HP Montauk Apartments Housing Development Fund Company, Inc.
 - (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (h) "Owner" shall mean the HDFC and the Company.
 - (i) "Regulatory Agreement" shall mean a regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
 - (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 twelve percent (12%) of Shelter Rent.
2. 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.
 3. 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 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 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.
 4. Notwithstanding any provision hereof to the contrary:
 - (a) The 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 Exemption shall prospectively terminate.

- (b) The Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings 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.
5. In consideration of the Exemption, the owner of the Exemption Area, for so long as the 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.

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,

Vicki Been

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