



Legislation Text

File #: Res 2097-2009, Version: *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 2097

Resolution approving an exemption from real property taxes for property located at (Block 2435, Lots 45) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1161).

By Council Member Weprin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated May 22, 2009 that the Council take the following action regarding a housing project to be located at (Block 2435, Lots 45) Bronx ("Exemption Area"):

Approve an 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 July 29, 2009;

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) "Current Owner" shall mean Findlay Plaza Housing Development Fund Corporation.
 - (b) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD and New Owner enter into the Regulatory Agreement.
 - (c) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2435, Lot 45 on the Tax Map of the City of New York.
 - (d) "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.

- (e) “Foreclosure Sale Use Agreement” shall mean a use agreement between the New Owner and HUD which commences on or before the Effective Date, runs with the land, binds all subsequent not-for-profit owners and creditors of the Exemption Area, and requires that the housing project on the Exemption Area continue to operate as affordable rental housing for elderly persons of low income for twenty (20) years from the date of conveyance of the Exemption Area to the New Owner or such earlier time as the HUD Secretary may specify in writing.
- (f) “HDFC” shall mean Findlay Teller Housing Development Fund Corporation.
- (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) “HUD Mortgage” shall mean the original loan made by HUD to the Current Owner in connection with the Section 202 Supportive Housing Program for the Elderly, which loan is secured by a mortgage on the Exemption Area.”
- (j) "New Exemption" shall mean the exemption from real property taxation, commencing on the Effective Date, provided hereunder with respect to the Exemption Area.
- (k) “New Owner” shall mean, collectively, the HDFC and the Partnership.
- (l) “Partnership” shall mean Findlay Teller L.P.
- (m) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on November 16, 1978 (Cal. No. 188).
- (n) “Regulatory Agreement” shall mean the regulatory agreement between HPD and the New Owner which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty (40) years from the Effective Date, and requires that (i) notwithstanding any term of the Foreclosure Sale Use Agreement or any other agreement to the contrary, the Exemption Area shall remain subject to the terms

of the Foreclosure Sale Use Agreement until a date which is forty (40) years from the Effective Date, (ii) in the event of a breach or a threatened breach of any of the covenants and agreements contained in the Foreclosure Sale Use Agreement, in addition to any other remedies that HPD has or may have at law

or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements, (iii) the New Owner shall exercise any and all available options to obtain and renew Rental Subsidy for eligible tenants, and (iv) the New Owner shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

(o) "Rental Subsidy" shall mean Section 8 rental assistance and any similar form of rental assistance from any government entity.

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. 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, 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 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.
 - 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.

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c. Nothing herein shall entitle the New 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.

5. In consideration of the New Exemption, the owner of the Exemption Area, for itself and its successors and assigns, shall (i) execute and record a Foreclosure Sale Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) 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.

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 July 29, 2009, on file in this office.

City Clerk, Clerk of Council