



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1389

Resolution approving a Regulatory Agreement for the approvals of a project summary, the conveyance of property, a termination of a partial tax exemption, a voluntary dissolution of the current owner and a partial tax exemption for the project located at Block 2757, Lots 10, 24, 28; Block 2750, Lot 20; and Block 2724, Lots 5, 103; Borough of the Bronx (L.U. No. 628; 20125697 HAX).

By Council Members Comrie and Levin

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on May 7, 2012 its request dated April 16, 2012 that the Council take the following actions regarding the following Regulatory Agreement Project (the "Project") located at Block 2757, Lots 10, 24, 28; Block 2750, Lot 20; and Block 2724, Lots 5, 103; for the approval of a project summary, a termination of a partial tax exemption, a voluntary dissolution of the current owner, the conveyance and a partial tax exemption, Community District 2, Council District 17, Borough of the Bronx (the "Regulatory Agreement"):

1. Approve pursuant to Section 114 of the PHFL, the Project Summary as to conformity with the provisions and purposes of Article V of the PHFL;
2. Approve pursuant to Section 122(1) of the PHFL, the conveyance of the Exemption Area by the Current Owner to the New Owner;
3. Approve pursuant to Section 125 of the PHFL, the terminations of the partial tax exemptions of the Exemption Area granted by the Board of Estimate on July 17, 1980 (Cal. Nos. 34 and 350), which terminations shall be effective (1) day preceding the Effective Date;
4. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner;
5. Approve, the partial exemption of the Project from real property taxes pursuant to Section 125 of the PHFL; and
6. Approve, pursuant to Section 114 of the PHFL, the HPD Regulatory Agreement and authorize the Commissioner of HPD to execute the HPD Regulatory Agreement in substantially the form submitted, when approved as to form by the Corporation Counsel.

WHEREAS, upon due notice, the Council held a public hearing on the Project on June 5, 2012;

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

RESOLVED:

The Council approves the Project Summary pursuant to Section 114 of the PHFL as to conformity with the provisions and purposes of Article V of the PHFL, a copy of which is attached hereto.

Approve, pursuant to Section 122(1) of the PHFL, the conveyance of the Exemption Area by the Current Owner to the New Owner.

The Council approves, pursuant to Section 125 of the PHFL, the terminations of the partial tax exemptions of the Exemption Area granted by the Board of Estimate on July 17, 1980 (Cal. Nos. 34 and 350) (Cal. No. 27), which terminations shall be effective (1) day

preceding the Effective Date.

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

The Council approves the partial exemption of the Project from real property taxes pursuant to Section 125 of the PHFL as follows:

- a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Current Owner" shall mean, collectively, Maria Estela Houses I Associates, L.P, and Aldus III Associates, L.P.
 - (2) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the New Owner, (ii) the date that the New Owner enters into the HPD Regulatory Agreement, or (iii) the date that the New Owner enters into the HDC Regulatory Agreement.
 - (3) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2757, Lots 10, 24, 28; Block 2750, Lot 20; and Block 2724, Lots 5, 103 on the Tax Map of the City of New York.
 - (4) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty years from the Effective Date, (ii) the date upon which the Exemption Area ceases to be owned by the New Owner or, subject to HPD approval, another redevelopment company organized pursuant to Article V of the PHFL, (iii) the date upon which the City terminates the tax exemption pursuant to the terms of the HPD Regulatory Agreement, or (iv) the date of the expiration or termination of the Section 8 Housing Assistance Payments Contracts or contracts under a similar or successor program.
 - (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 of 40 years, all units in the Exemption Area must be rented upon vacancy 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.
 - (9) "Maximum Shelter Rent Tax" shall mean (i) \$523,783, plus (ii) 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.
 - (10) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - (11) "New Owner" shall mean PRC Westchester Avenue LLC.
 - (12) "Prior Exemption" shall mean the partial exemption of the Exemption Area from real property taxation pursuant to Section 125 of the Private Housing Finance Law approved by the Board of Estimate on July 17, 1980 (Cal. Nos. 34 and 350).
- b. 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.
- c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real estate tax payments in the amount of the Maximum Shelter Rent Tax. Notwithstanding the

foregoing, the total annual real estate tax payment by the New 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 estate taxes that would otherwise be due and payable in the absence of any form of tax exemption or abatement provided by any existing or future local, state or federal law, rule or regulation.

d. In consideration of the New Exemption, the New Owner, for so long as the New Exemption shall remain in effect, shall waive the benefits, of any additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

6. Approve, pursuant to Section 114 of the PHFL, the HPD Regulatory Agreement and authorize the Commissioner of HPD to execute the HPD Regulatory Agreement in substantially the form submitted, when approved as to form by the Corporation Counsel.

7. 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 rescinded, 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 terminated or interrupted.

The Council approves pursuant to Section 114 of the PHFL, the HPD Regulatory Agreement and authorizes the Commissioner of HPD to execute the HPD Regulatory Agreement in substantially the form submitted, when approved as to form by the Corporation Counsel.

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 13, 2012, on file in this office.

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City Clerk, Clerk of The Council