



Legislation Text

File #: Res 0576-2018, Version: *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 576

Resolution approving a new real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law (PHFL), the termination of a prior exemption pursuant to PHFL Section 125, and consent to the voluntary dissolution of the prior owner pursuant to PHFL Section 123(4) for property located at Block 1824, Lot 16, Community District 10, Borough of Manhattan, (L.U. No. 225; Non-ULURP No. 20195049 HAM).

By Council Members Salamanca and Kallos

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on October 1, 2018 an amendment of its original request of August 2018, such amended request dated October 1, 2018 that the Council take the following actions regarding a new real property tax exemption for an area located at Block 1824, Lot 16, Community District 10, Council District 9, Borough of Manhattan, (the "Exemption Area");

Approve an exemption of the Exemption Area from real property taxes pursuant to the Private Housing Finance Law (PHFL) Section 577 (the "Tax Exemption");

Approve the termination of a prior tax exemption for the Exemption Area pursuant to PHFL Section 125 (the "Termination");

Consent to the voluntary dissolution of the current owner pursuant to PHFL Section 123(4) (the "Dissolution");

WHEREAS, HPD's request for the Tax Exemption is related to a previously approved real property tax exemption by the Board of Estimate on July 17, 1980 (Cal. No. 11);

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption, Termination and Dissolution on September 17, 2018; and

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption, Termination and Dissolution.

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. Approve the exemption from real property taxation pursuant to Section 577 of the Private Housing Finance Law as follows:
 - a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Company" shall mean Church Home Partners LLC or any other entity that acquires the beneficial interest in the Exemption Area with the prior written consent of HPD.
 - (2) "Contract Rent Deadline" shall mean three hundred and sixty-five (365) days from the date of the HPD letter requesting the information that HPD needs to calculate the Contract Rent Differential Tax for the

applicable tax year.

- (3) “Contract Rent Differential” shall mean the amount by which the total contract rents applicable to the Exemption Area for such tax 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.
- (4) “Contract Rent Differential Tax” shall mean (a) the sum of (i) \$530,760, plus (ii) twenty-five percent (25%) of the Contract Rent Differential; or (b) if the Department of Buildings issues a Temporary Certificate of Occupancy (“TCO”) for all of the residential dwelling units in the New Project on or before the eighth anniversary of the Effective Date, then “Contract Rent Differential Tax” shall thereafter mean \$0 from the tax year in which the TCO was originally issued until the fifteenth anniversary of such tax year, after which “Contract Rent Differential Tax” shall mean five percent (5%) of the total contract rents applicable to the Exemption Area on the sixteenth anniversary of the tax year in which such TCO is issued; provided, however, that, with respect to either (a) or (b), if the New Owner fails to provide the contract rents on or before the Contract Rent Deadline, Contract Rent Differential Tax shall mean an amount equal to real property taxes that would otherwise be due in such tax year in the absence of any form of exemption from or abatement of real property taxation.
- (5) “Conveyance Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1824, Lot 155 on the Tax Map of the City of New York.
- (6) “Current Owner” shall mean Church Home Associates, L.P.
- (7) “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 New Owner enter into the Regulatory Agreement.
- (8) “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1824, Lot 16 on the Tax Map of the City of New York.
- (9) “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.
- (10) “HDFC” shall mean Church Home Rental Housing Development Fund Company, Inc. or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
- (11) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
- (12) “New Exemption” shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (13) “New Owner” shall mean, collectively, the HDFC and the Company.
- (14) “New Project” shall mean the new multiple dwelling to be constructed on the Conveyance Area that (a) will be subject to a restrictive covenant for a maximum of four years from the date of execution and recordation thereof requiring, unless otherwise agreed to by HPD, a minimum of 288 dwelling units of rental housing, with at least 10% of the dwelling units in the New Project affordable to persons at or below 50% of Area Median Income (“AMI”), an additional 10% of the dwelling units in the New Project affordable to persons at or below 90% of AMI, and an additional 20% of the dwelling units in the New Project affordable to persons at or below 130% of AMI, (b) upon the construction loan closing for such New Project, shall thereafter be subject to a restrictive declaration or regulatory agreement for a term of at least 35 years requiring at a minimum the percentages of dwelling units at the affordability levels set forth in subparagraph (a) of this paragraph (14), and (c) shall not receive subsidy from HPD or any other government agency (except for a tax exemption under Real Property Tax Law 421-(a)(16) or Section 577 of the New York Private Housing Finance Law or any successor or equivalent thereof).

(15) "PHFL" shall mean the Private Housing Finance Law.

(16) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area pursuant to Section 125 of the PHFL approved by the Board of Estimate on July 17, 1980 (Cal No. 11).

(17) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.

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, 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.

c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real property tax payments in the sum of the Contract Rent Differential Tax. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the lesser of (i) seventeen percent (17%) of the contract rents in the applicable tax year, 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.

d. Notwithstanding any provision hereof to the contrary:

(1) 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 PHFL, (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 the New Owner and all mortgagees of record, and, where there has been an unauthorized conveyance or transfer of any interest in the Exemption Area, to the new owner of such interest in the Exemption Area, 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.

(2) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that exists on the Effective Date.

(3) Nothing herein shall entitle the HDFC, the New Owner, or any other person or entity to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

e. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, 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. Notwithstanding the foregoing, nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities.

2. Approve, pursuant to Section 125 of the PHFL, the termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.

3. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.

4. 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.

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 October 17, 2018, on file in this office.

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City Clerk, Clerk of The Council