



Legislation Text

File #: Res 1093-2016, Version: \*

**THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 1093**

**Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), terminate a prior exemption under PHFL Section 125, consent to the voluntary dissolution of the prior owner under PHFL 123(4), and approve the conveyance to a new owner for the Exemption Area located on Block 1594, Lots 50, 61 and 65, Borough of Manhattan (Preconsidered L.U. No. 375; 20165583 HAM).**

**By Council Members Greenfield and Dickens**

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on May 12, 2016 its request dated May 6, 2016 that the Council take the following actions regarding a tax exemption for real property located on Block 1594, Lots 50, 61 and 65, Community District 10, Borough of Manhattan (the "Exemption Area"):

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

Terminate, pursuant to PHFL Section 125, a prior exemption for the Exemption Area;

Approve the conveyance of the Exemption Area from the current owner to the new owner; and

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

WHEREAS, upon due notice, the Council held a public hearing on the Project on May 17, 2016; and

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

**RESOLVED:**

The Council approves the exemption of the Project from real property taxes 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 New West II Affordable Preservation LLC.
  - (2) "Current Owner" shall mean New West 111th Street Two Associates Limited Partnership.

- (3) “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.
  - (4) “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1594, Lots 50, 61 and 65 on the Tax Map of the City of New York.
  - (5) “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, (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.
  - (6) “HDFC” shall mean HP Harlem Portfolio Housing Development Fund Company, Inc.
  - (7) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
  - (8) “New Exemption” shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
  - (9) “New Owner” shall mean, collectively, the HDFC and the Company.
  - (10) “Prior Exemption” shall mean the exemption of the Exemption Area from real property taxation pursuant to Section 125 of the PHFL approved by the Board of Estimate on August 21, 1980 (Cal. No. 13).
  - (11) “PHFL” shall mean the Private Housing Finance Law.
  - (12) “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.
  - (13) “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.
  - (14) “Shelter Rent Tax” shall mean an amount equal to seven percent (7%) of Shelter Rent .
- 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 property tax payments as follows: (a) commencing upon the Effective Date and during each year thereafter until the sixteenth anniversary of the Effective Date, in the sum of the Shelter Rent Tax; and (b) commencing upon the sixteenth anniversary of the Effective Date and during each year thereafter until the Expiration Date, in the sum of (i) an amount equal to the Shelter Rent Tax due on fifteenth anniversary of the Effective Date, 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 fifteenth anniversary of the Effective Date. Notwithstanding the foregoing, the total annual real property tax payment by the New 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.

- 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 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 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.
  - (2) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist on the Effective Date.
  - (3) 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.
- e) In consideration of the New Exemption, the owner of the Exemption Area, for so long as the New Exemption shall remain in effect, shall waive the benefits, if any, 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.
2. The Council approves, 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. The Council approves the conveyance of the Exemption Area from the Current Owner to the New Owner.

4. The Council consents, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.
  
5. 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 May 25, 2016, on file in this office.

City Clerk, Clerk of The Council