



Legislation Details (With Text)

**File #:** Res 1632-2021      **Version:** \*      **Name:** LU 788 - Penn South, Manhattan

**Type:** Resolution      **Status:** Adopted

**In control:** Committee on Finance

**On agenda:** 5/12/2021

**Enactment date:**      **Enactment #:**

**Title:** Resolution (1) approving an additional exemption from real property taxes for the properties located at 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1) in Manhattan, pursuant to Section 125(1)(a-4) of the Private Housing Finance Law, (2) approving, in addition to any residential carrying charge increases previously authorized by the City Council, (a) authority for the Housing Company to implement a 9% increase in its residential carrying charges, to be effective June 1, 2021, and (b) authority for the Housing Company to implement, in consultation with HPD, further increases in its residential carrying charges by up to a total of 15% in future years, if, as and when needed to meet operating expenses, (3) approving a Ninth Amendatory Agreement to the Contract between the City of New York and Mutual Redevelopment Houses, Inc., and (4) authorizing the Mayor or any Deputy Mayor or the Commissioner of the New York City Department of Housing Preservation and Development to execute the Ninth Amendatory Agreement when approved as to form by the Corporation Counsel and directing the City Clerk to attest to the same and to affix the seal of the City thereto. (Preconsidered L.U. No. 788).

**Sponsors:** Daniel Dromm

**Indexes:**

**Attachments:** 1. Housing Preservation and Development Letter, 2. Memorandum, 3. Res. No. 1632, 4. May 12, 2021 - Stated Meeting Agenda with Links to Files, 5. Hearing Transcript - Stated Meeting 5-12-21, 6. Minutes of the Stated Meeting - May 12, 2021

Date	Ver.	Action By	Action	Result
5/12/2021	*	Committee on Finance	P-C Item Approved by Comm	
5/12/2021	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 1632

Resolution (1) approving an additional exemption from real property taxes for the properties located at 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1) in Manhattan, pursuant to Section 125(1)(a-4) of the Private Housing Finance Law, (2) approving, in addition to any residential carrying charge increases previously authorized by the City Council, (a) authority for the Housing Company to implement a 9% increase in its residential carrying charges, to be effective June 1, 2021, and (b) authority for the Housing Company to implement, in consultation with HPD, further increases in its residential carrying charges by up to a total of 15% in future years, if, as and when needed to meet operating expenses, (3) approving a Ninth Amendatory Agreement to the Contract between the City of New York and Mutual Redevelopment Houses, Inc., and (4) authorizing the Mayor or any Deputy Mayor or the Commissioner of the New York City Department of Housing Preservation and Development to execute the Ninth Amendatory Agreement when approved as to form by the Corporation Counsel and directing

the City Clerk to attest to the same and to affix the seal of the City thereto. (Preconsidered L.U. No. 788).

By Council Member Dromm

**WHEREAS**, The New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council of the City of New York its request dated April 13, 2021 that the Council of the City of New York approve an additional exemption from real property taxes for the properties located at 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1) in Manhattan (“Exemption Area”), pursuant to Section 125(1)(a-4) of the Private Housing Finance Law; and

**WHEREAS**, The State Legislature, by enactment of Chapter 531 of the Laws of 2014, which added Section 125(1)(a-4) of the Private Housing Finance Law (“Article V Mutual Authorizing Legislation”), has authorized the local legislative body in a city having a population of one million or more to grant an additional tax exemption for a period of up to fifty years to a mutual redevelopment company for which the local legislative body has previously acted to extend the tax exemption for the maximum period provided for Section 125(1)(a-2) of the Private Housing Finance Law; and

**WHEREAS**, Such Article V Mutual Authorizing Legislation also provides that such grant of an additional tax exemption period shall take effect upon the expiration of the maximum period provided for in Section 125(1)(a-2) of the Private Housing Finance Law; and

**WHEREAS**, Such Article V Mutual Authorizing Legislation also provides that the amount of taxes to be paid by such mutual redevelopment company during any such period of tax exemption shall be not less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (ii) the taxes payable by such company for the residential portion of the project during the tax year commencing July 1, 2000 and ending on June 30, 2001; and

**WHEREAS**, the Council of the City of New York, the local legislative body of the City of New York, has previously acted, pursuant to Res. No. 2044 of 2001, to extend the tax exemption for properties owned and operated by Mutual Redevelopment Houses, Inc. (“Housing Company”) and located in the Exemption Area, pursuant to Section 125(1)(a-2) of the Private Housing Finance Law, for the maximum period provided in Section 125(1)(a-2) of the Private Housing Finance Law; and

**WHEREAS**, Such tax exemption pursuant to Section 125(1)(a-2) of the Private Housing Finance Law shall expire on June 30, 2022; and

**WHEREAS**, The City of New York, acting through the HPD Commissioner, (“City”) entered into an agreement with the Housing Company, dated as of June 24, 2011 (“Sixth Amendatory Agreement”), which Sixth Amendatory Agreement was approved by the City Council on May 6, 2011 (Res. No. 813 of 2011); and

**WHEREAS**, In Section 1 of such Sixth Amendatory Agreement, the City and the Housing Company agreed to amend Paragraph 105 of that certain Agreement, dated as of July 1, 1987, between the Housing Company and the City, as amended by an Amendatory Agreement dated as of November, 1990, and further amended by a Second Amendatory Agreement dated as of July 1, 1995, and by a Third Amendatory Agreement dated as of August 22, 2001, and by a Fourth Amendatory Agreement dated as of October 6, 2005, and by a Fifth Amendatory Agreement dated as of January 17, 2006 (collectively, including the Sixth Amendatory Agreement, “City Agreement”), to add a new subparagraph (B) to Paragraph 105 of the City Agreement, to

provide, among other things, that, subject to the enactment of the Article V Mutual Authorizing Legislation and the enactment of a resolution by the City Council:

“... the City agrees to and hereby does grant an additional exemption and exempts from local and municipal taxes, all of the value of the portion of the Redevelopment Project owned by the Housing Company which is taxed as residential pursuant to the terms of this Agreement, for the period commencing with the City’s tax year July 1, 2022 through June 30, 2023, and continuing through the City’s tax year July 1, 2029 through June 30, 2030, provided that the amount of taxes to be paid by the Housing Company during each such tax year shall be an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the Housing Company minus utilities for the residential portion of the Redevelopment Project or (ii) the taxes paid by the Housing Company for the residential portion of the Redevelopment Project in the City’s tax year July 1, 2000 through June 30, 2001, in the total amount of \$3,477,099.00 (the ‘Additional Exemption’) ...”;

and

**WHEREAS**, The Article V Mutual Authorizing Legislation has been enacted by the State Legislature;

and

**WHEREAS**, The Council of the City of New York has determined that, given the tremendous growth in real property values in the Exemption Area, which has caused real property taxes to increase beyond the means of the primarily low- and moderate-income tenants who reside therein, it is in the interest of the City to assist the Housing Company in maintaining affordable rents and carrying charges by granting an additional exemption as authorized by Section 125(1)(a-4) of the Private Housing Finance Law; and

**WHEREAS**, The Council of the City of New York has considered the financial implications relating to the extended partial exemption from real property taxes; and

**WHEREAS**, The Council acted pursuant to Res. No. 658 of 2015, to approve a Seventh Amendatory Agreement between the Housing Company and the City, executed by the parties on May 8, 2015, which in part provided, “... pursuant to Private Housing Finance Law §125(1)(a-4), [of] an additional exemption from real property taxes, other than assessments for local improvements, of all of the residential portion of the Exemption Area for a period commencing with the City’s tax year July 1, 2022 through June 30, 2023 and continuing through the City’s tax year July 1, 2029 through June 30, 2030, provided, however, that the amount of taxes to be paid during such period of tax exemption shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus the utilities for the residential portion of the project, or (ii) \$3,477,099.00, the taxes payable by the Housing Company for the residential portion of the project during the tax year commencing July 1, 2000 and ending on June 30, 2001.”; and

**WHEREAS**, While Chapter 531 of the Laws of 2015 authorized an additional tax exemption for a total of fifty years, the Housing Company only sought and received from the Council in 2015 an extension of eight years, to June 30, 2030. Subsequently, however, as a precondition for providing mortgage insurance on a 35-year loan of approximately \$190,000,000 in 2017 (“2017 Loan”), the Federal Housing Administration of the United States Department of Housing and Urban Development (“HUD”) required the Housing Company to secure another extension of its tax exemption, for an additional 22 years from 2030 until June 30, 2052; and

**WHEREAS**, HUD also required the Housing Company to secure, in addition to any other increases authorized by the City Council, (a) the Housing Company’s authority to impose carrying charge increases, at the rate of one (1%) percent per year throughout the term of the 2017 Loan, until 2052 (“1% Carrying Charge Increases”), and (b) HUD’s discretionary authority to mandate from time to time and without any further City

Council approvals, that the Housing Company increase its carrying charges if necessary for purposes of paying its expenses; and

**WHEREAS**, The Council acted pursuant to Res. No. 1359 of 2017, to approve an Eighth Amendatory Agreement between the Housing Company and the City, executed by the parties on February 2, 2017, which authorized the amendments to the City Agreement described above; and

**WHEREAS**, The Housing Company has been experiencing significant economic strains on its financial condition, particularly due to the effects of the COVID-19 pandemic on its commercial rental income. It now has the opportunity to update its HUD-insured mortgage financing, for an extended four-year period from its current maturity in 2052 until 2056, at a significantly lower interest rate than the rate it currently pays; and

**WHEREAS**, As a precondition to obtaining the financing, the Housing Company is being required by the lender to obtain a 5-year extension of the City Agreement and Penn South's current real property tax exemption in order to assure satisfaction of HUD's requirements for mortgage insurance to run from the current expiration date of June 30, 2052 for both the City Agreement and the real property tax exemption, to June 30, 2057, which is one year beyond the extension of the Housing Company's mortgage financing. The extension of the City Agreement and of Penn South's real property tax exemption would be incorporated into a Ninth Amendatory Agreement to the City Agreement; and

**WHEREAS**, To further alleviate the economic impact on the Housing Company of the COVID-19 pandemic and to keep the Housing Company on a sound financial basis, the Housing Company is also seeking the Council's authority to increase the residential carrying charges paid by its tenant-cooperators. Specifically, the Housing Company seeks the Council's authority to: (a) impose a 9% residential carrying charge increase, effective June 1, 2021, essentially replacing a ten-year capital assessment authorized by the City Council in 2011 (Res. No. 813) that expires on May 31, 2021, and (b) in consultation with HPD, the Housing Company's supervisory agency, to implement further carrying charge increases in future years up to a total of 15% if, as and when needed to meet operating expenses; and

**WHEREAS**, HPD, which supervises the Housing Company, recognizes the importance of the preservation of the Exemption Area as an affordable housing development and the tax relief necessary for such preservation. HPD also supports the proposed Ninth Amendatory Agreement; now, therefore, be it

**RESOLVED:**

The Council of the City of New York hereby:

1. Approves, pursuant to PHFL § 125(1)(a-4), an additional exemption from real property taxes, other than assessments for local improvements, of all of the residential portion of the Exemption Area for the period commencing with the City's tax year July 1, 2052 through June 30, 2053, and continuing through the City's tax year July 1, 2056 through June 30, 2057, provided, however, that the amount of taxes to be paid during such period of tax exemption shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus the utilities for the residential portion of the project, or (ii) \$3,477,099.00, the taxes payable by the Housing Company for the residential portion of the project during the tax year commencing July 1, 2000, and ending on June 30, 2001.
2. Approves, in addition to any residential carrying charge increases previously authorized by the City Council, (a) authority for the Housing Company to implement a 9% increase in its residential

carrying charges, to be effective June 1, 2021, and (b) authority for the Housing Company to implement, in consultation with HPD, further increases in its residential carrying charges by up to a total of 15% in future years, if, as and when needed to meet operating expenses.

3. Approves, pursuant to PHFL Section 114, the proposed Ninth Amendatory Agreement between the City of New York and the Housing Company in substantially the form submitted, incorporating provisions concerning extension of both the City Agreement and the Housing Company's tax exemption to June 30, 2057, and authorizes the Mayor or any Deputy Mayor or the Commissioner of the Department of Housing Preservation and Development to execute the Ninth Amendatory Agreement, when approved as to form by the Corporation Counsel, and direct the City Clerk or Acting City Clerk to attest to the same and to affix the seal of the City thereto.

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 12, 2021, on file in this office.

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City Clerk, Clerk of Council