



## Legislation Details (With Text)

**File #:** 13-1863      **Version:** 1      **Name:** Montgomery II - Tax Abatement  
**Type:** Ordinance      **Status:** Tabled  
**File created:** 10/2/2013      **In control:** Municipal Council and City Clerk  
**On agenda:** 2/19/2014      **Final action:** 5/20/2014  
**Title:** AN ORDINANCE GRANTING A THIRTY (30) YEAR TAX ABATEMENT TO MONTGOMERY TWO HOUSING URBAN RENEWAL, LLC, C/O PENNROSE PROPERTIES, 230 WYOMING AVENUE, KINGSTON, PENNSYLVANIA 18704 THE OWNER OF A MIXED USE PROJECT LOCATED ON PROPERTY COMMONLY KNOWN AS 645-715 DR. MARTIN LUTHER KING, JR. BOULEVARD AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 2559, LOTS 7 AND 47. (CENTRAL WARD)  
Sponsors: Councilmembers Sharif/Gonzalez  
Deferred 6PSF-a 021914/ Public Hearing Open  
Deferred 6PSF-a (s) 022514/ Public Hearing Open  
Deferred 6PSF-b 030514/ Public Hearing Open  
Deferred 6PSF-b 031914/ Public Hearing Open  
Deferred 6PSF-b 040214/ Public Hearing Open  
Deferred 6PSF-b 041614/ Public Hearing Open  
Deferred 6PSF-a 050714/ Public Hearing Open  
Tabled 6PSF-a 052014

**Sponsors:**

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
5/20/2014	1	Municipal Council	Tabled	Pass
5/7/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
4/16/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
4/2/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
3/19/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
3/5/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
2/25/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
2/19/2014	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
2/11/2014	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

**AN ORDINANCE GRANTING A THIRTY (30) YEAR TAX ABATEMENT TO MONTGOMERY TWO HOUSING URBAN RENEWAL, LLC, C/O PENNROSE PROPERTIES, 230 WYOMING AVENUE, KINGSTON, PENNSYLVANIA 18704 THE OWNER OF A MIXED USE PROJECT LOCATED ON PROPERTY COMMONLY KNOWN AS 645-715 DR. MARTIN LUTHER KING, JR. BOULEVARD AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 2559, LOTS 7 AND 47. (CENTRAL WARD)**

**Sponsors: Councilmembers Sharif/Gonzalez**  
**Deferred 6PSF-a 021914/ Public Hearing Open**  
**Deferred 6PSF-a (s) 022514/ Public Hearing Open**  
**Deferred 6PSF-b 030514/ Public Hearing Open**  
**Deferred 6PSF-b 031914/ Public Hearing Open**  
**Deferred 6PSF-b 040214/ Public Hearing Open**  
**Deferred 6PSF-b 041614/ Public Hearing Open**  
**Deferred 6PSF-a 050714/ Public Hearing Open**  
**Tabled 6PSF-a 052014**

**WHEREAS**, Montgomery Two Housing Urban Renewal, LLC, with an address of c/o Pennrose Properties, 230 Wyoming Avenue, Kingston, Pennsylvania 18704 (the "Entity"), filed an application with the Mayor seeking a long term tax abatement for a mixed use project consisting of the construction of approximately one hundred fifty four (154) affordable housing units and approximately 7,000 square feet of commercial/retail space (the "Project") on property commonly known as 645-715 Dr. Martin Luther King, Jr. Boulevard, Newark, New Jersey and identified on the official tax map of the City as Block 2559, Lots 7 and 47 (the "Property") pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq.; and

**WHEREAS**, the Mayor has submitted the application and proposed Financial Agreement to the Municipal Council with his recommendation thereof, a copy of which is annexed hereto; and

**WHEREAS**, in accordance with Ordinance 6PSF-a, adopted May 4, 2011, the Entity has filed with the City a sworn statement that it has not made any contribution in violation of said ordinance; and

**WHEREAS**, the Municipal Council has determined pursuant to N.J.S.A. 40A:20-11 that the relative benefits of this Project outweigh any costs associated with this tax exemption and that without the tax abatement granted herein, the Project would not be undertaken.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The application of Montgomery Two Housing Urban Renewal, LLC, with an address of c/o Pennrose Properties, 230 Wyoming Avenue, Kingston Pennsylvania 18704, (the "Entity") for the development, maintenance and operation of the Mixed Use Project, located at 645-715 Dr. Martin Luther King, Jr. Boulevard, Newark, New Jersey, and described in the application is hereby approved in accordance with the recommendation of the Mayor.

2. The exemption from taxation on improvements is hereby granted to the Entity for a period of thirty (30) years for the Project from the date of substantial completion of the Project, pursuant to N.J.S.A. 40A:20-12, and only so long as the Entity is subject to and complies with the proposed Financial Agreement and the Long Term Tax Exemption Law, as amended and supplemented, and upon the further condition that the Entity does not file a petition of tax appeal for the Property on which the Project is to be located.

3. The Mayor of the City of Newark is hereby authorized to execute, on the City's behalf, the Financial Agreement in the form attached hereto.

4. An executed copy of the Financial Agreement authorized by this ordinance shall be filed and maintained with the City Clerk.

5. The Project when completed, will conform with all State laws and ordinances of the City of Newark relating to its construction and use.

6. The Affirmative Action Program now on file in the Office of the City Clerk is declared to be a material condition of the Financial Agreement authorized by this ordinance.

7. The Entity shall in the operation of the Project comply with all laws so that no person shall be subject to any discrimination because of race, religious principles, color, national origin, or ancestry.

8. The Entity shall file an employment report (herein described below) with the Office of Affirmative Action who shall forthwith after receiving the report send a copy thereof to the City Clerk and the Office of Affirmative Action shall forthwith investigate the matters contained therein and report its findings to the Municipal Council.

9. Subject to the requirements of paragraph 10 below, as of the Annual Service Charge Start Date (as defined in the Financial Agreement), the Entity shall pay an estimated quarterly service charge to the City in the amount of \$22,722.00 until the correct amount due from the Entity is determined by the City's Director of Finance based upon the auditor's report that is required to be submitted under the Financial Agreement. The annual service charge shall be based on 6.28% of the Annual Gross Revenue from the affordable housing units and 15% of the Annual Gross Revenue from the commercial/retail units and all other income (if any) generated by the Project pursuant to the terms of the Financial Agreement. After the auditor's report required under the Financial Agreement has been accepted by the City's Director of Finance, the City and the Entity will adjust any over or under payment so made or needed to be made for the particular period covered by the auditor's report.

10. The Entity shall pay the minimum annual service charge, as calculated pursuant to N.J.S.A. 40A:20-12(b)(2)(e) and the financial agreement, in each year in which the annual service charge, as provided in paragraph 9 above, would be less than the minimum annual service charge.

11. The following occurrences and requirements are express conditions of the granting of this tax abatement, to be performed by the Entity, and the failure to comply with these requirements will result in the cancellation of the tax abatement:

(a) The Entity shall pay full taxes on the land and improvements of the Project (designated as Block 2559, Lots 7 and 47), until the annual service charge becomes effective;

(b) The Entity shall not, without prior consent of the Municipal Council of the City of Newark, sell, lease, assign, encumber, subordinate, convey, mortgage or transfer all, or any part of the Project, so as to sever, disconnect or divide the improvements from the land embraced within the Project;

(c) The Entity, pursuant to the Revised City Ordinance 10:24-1 et seq., as amended, shall be deemed to agree that if the Entity operates, controls or manages the Project that it will in good faith assist the City of Newark in its goal of having 50% of all new jobs arising out of the businesses conducted on the Project site after the issuance of the certificate of occupancy and during the continuation of the tax exemption, dedicated to Newark residents, of which 25% of such all new employees shall be minority residents;

(d) The Entity shall concomitantly, with the submission of the annual report required of it by N.J.S.A. 40A:20-9(d), attach an employment report under oath, with particulars, stating the manner and the extent to which it has complied with 11(c) above. This employment report shall be filed with the Director of Finance, the City Clerk of the City of Newark, and the Acting Director of the Department of Economic and Housing Development;

(e) The Entity shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this ordinance;

(f) The Entity shall complete the Project within twenty-four (24) months of the issuance of a

Notice to Proceed by the Acting Director of the Department of Economic and Housing Development; provided, however, that the Acting Director of the Department of Economic and Housing Development is hereby authorized to enter into a maximum of two (2) six (6) month extensions of the construction schedule deadlines set forth within the Financial Agreement and any other timelines and milestones, provided that such deadlines, timelines and milestones are not extended beyond the two permitted six month extensions, subject to full written disclosure (in the form of a signed memorandum to be submitted prior to adoption) to the Newark Municipal Council by the Acting Director of the Department of Economic and Housing Development;

(g) The Entity shall submit any and all lease agreements and/or subleases entered into with related or third parties for the use and occupancy of space made available by the Entity to the Law Department and the Department of Economic and Housing Development. The obligation to submit lease agreements shall be a continuing obligation during the period of the Financial Agreement. All lease agreements shall be subject to review by the City for the purpose of determining the validity thereof and to ensure that lease agreements are executed as part of an arms length transaction;

(h) The Entity shall submit to the City a copy of its formation documents, as approved by the Department of Community Affairs and filed with the Secretary of State;

(i) The Entity shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to Municipal Ordinance 6S&FD 102192, as amended;

(j) The Entity shall obtain a long term (i.e. 50 year or more) leasehold interest in the Property prior to this tax abatement taking effect and shall submit a signed copy of the lease to the Acting Director of the Department of Economic and Housing Development, the Tax Assessor, City Clerk and the Corporation Counsel. The Acting Director of the Department of Economic and Housing Development shall not issue a Notice to Proceed for this Project until the Entity provides the Acting Director of the Department of Economic and Housing Development with a copy of the lease and such other documents as are reasonably required by the Acting Director of the Department of Economic and Housing Development evidencing the Entity's receipt of a long term leasehold right in the Property;

(k) The Entity shall secure all financing prior to the commencement of any construction.

12. That in any year that the Entity shall fail to make four (4) consecutive land tax payments when due and owing in the manner defined in N.J.S.A. 40A:20-12(b)(2)(e), such delinquency shall render the Entity ineligible for any land tax credits against the annual service charge.

13. The Entity understands and agrees that the revenue projections set forth in the application are estimates and that the actual payments in lieu of taxes to be paid by the Entity to the City shall be determined pursuant to the Financial Agreement to be executed between the Entity and the City of Newark.

14. The City Clerk's Office of the City of Newark shall forthwith submit a certified copy of the ordinance approving the tax exemption and the proposed Financial Agreement to the Director of the Division of Local Government Services.

15. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT**

This ordinance grants a long term tax abatement to Montgomery Two Housing Urban Renewal, LLC, with an address of c/o Pennrose Properties, 230 Wyoming Avenue, Kingston Pennsylvania 18704, pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq., for a term of thirty (30) years for a mixed use project consisting of the construction of approximately one hundred fifty four (154) affordable housing units

and approximately 7,000 square feet of commercial/retail space on property located within the City's Central Ward commonly known as 645-715 Dr. Martin Luther King, Jr. Boulevard, Newark, New Jersey and identified on the official tax map of the City as Block 2559, Lots 7 and 47. (Central Ward)