



Legislation Details (With Text)

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Type: Resolution **Status:** Filed

File created: 11/19/2012 **In control:** Economic and Housing Development

On agenda: 2/26/2013 **Final action:** 2/26/2013

Title: Dept/ Agency: Economic & Housing Development
 Action: Ratifying Authorizing Amending
 Type of Service: Application for Long-Term Tax Abatement
 Purpose: Cancel current tax abatement Granted to of JPA Development Association and approve acquisition and a new tax abatement for RNJ Court Street, LLC on the 221 unit low-income senior housing project.
 Entity Name: RNJ Court Street, LLC
 Entity Address: 551 Fifth Avenue, 23rd Floor, New York, New York 10176
 Abatement Period: Thirty (30) years
 Contract Basis: Bid State Vendor Prof. Ser. EUS
 Fair & Open No Reportable Contributions RFP RFQ
 Private Sale Grant Sub-recipient n/a
 List of Property:
 (Address/Block/Lot/Ward)
 961-985 Broad Street, Block 111, Lot 75, East Ward
 Additional Information:
 Original tax abatement granted by Resolution 7RA 022674
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Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
2/26/2013	1	Municipal Council	Adopt	Pass

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WHEREAS, as authorized under the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended and supplemented, N.J.S.A. 55:14K-1 et seq. (the “HMFA Law”), RNJ Court Street, LLC, having its principal office located at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 (the “Entity”) submitted an application for the approval of a project to acquire an existing two hundred and twenty-one (221) units of low-income senior housing project, inclusive of a superintendent’s unit (the “Project”); and

WHEREAS, the Project is located on land identified on the Official Tax Map of the City of Newark as Block 111, Lot 75 and more commonly known as 961-985 Broad Street (“Property”); and

WHEREAS, the Project will be subject to the HMFA Law and the mortgage and other loan documents executed between RNJ Court Street, LLC and the New Jersey Housing and Mortgage Finance Agency (the “HMFA”); and

WHEREAS, RNJ Court Street, LLC is seeking a tax abatement for the Project pursuant to the provisions of the HMFA Law; and

WHEREAS, J.P.A. Development Association, the current owner of the property, has requested that the current tax abatement on the Property be canceled as of the date that it conveys title to the Property to RNJ Court Street, LLC; and

WHEREAS, the tax abatement granted to J.P.A. Development Association commenced on October 31, 1976 and is scheduled to expire on October 31, 2023; and

WHEREAS, the Municipal Council has determined that the Project meets an existing need, and has further determined that the Project is an improvement made for the purpose of construction, improvement or rehabilitation of housing project as set forth in the HMFA Law; and

WHEREAS, in accordance with Ordinance No. 6PS&FA adopted May 4, 2011 (the Redeveloper Pay-to-Play Ordinance), RNJ Court Street, LLC has filed with the City a sworn statement that it has not made any contribution in violation of said Ordinance.

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

1. The existing tax abatement on the property granted to J.P.A. Development Association by Resolution 7RA 022674 is hereby canceled as of the date that J.P.A. Development Association conveys title to the property to RNJ Court Street, LLC.

2. The application of RNJ Court Street, LLC, having its principal office located at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 (the “Entity”) for the acquisition and operation of the residential project described in the application is hereby approved.

3. The Municipal Council hereby adopts this resolution and makes the determinations and findings herein contained by virtue of, pursuant to, and in conformity with the provisions of HMFA Law with the intent and purpose that the HMFA rely thereon in making a mortgage loan to the Entity,

which shall renovate, own, and operate the Project.

4. The Municipal Council 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.

5. The abatement shall take effect for a period of thirty (30) years from the date that the Entity acquires title to the property and receives HMFA financing for the Project (i.e. assume the HMFA Existing Mortgage or New NJHMFA Financing) , but shall not extend beyond the date in which the Agency Mortgage, as defined in the Financial Agreement, on the Project is paid in full, and the Entity and its successors that may assume the Financial Agreement shall be subject to the provisions and conditions of the HMFA Law and the Financial Agreement annexed hereto. The maximum period of the tax abatement is thirty (30) years, which is inclusive of both the Existing Mortgage and the new Agency Mortgage.

6. The project is approved subject to any approvals that may be required by the Department of Community Affairs of the State of New Jersey and the HMFA.

7. The Mayor of the City of Newark and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to execute, on the City's behalf, the Financial Agreement in the form attached hereto.

8. An executed copy of the Financial Agreement authorized by this Resolution shall be filed by the Director of the Department of Economic and Housing Development with the Office of the City Clerk.

9. The Project, upon completion, shall conform with all State Laws and Ordinances of the City of Newark relating to its construction and use.

10. 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 Resolution.

11. 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.

12. 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 Office of the City Clerk. The Office of Affirmative Action shall forthwith investigate the matters contained therein and report its findings to the Municipal Council.

13. As of the Annual Service Charge Start Date (as defined in the Financial Agreement), the Entity shall pay an estimated quarterly service charge of \$33,551.17 to the City 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. Upon receipt of the Auditor's Report required under the Financial Agreement has been accepted by the City's Director of Finance, and within ninety (90) days thereafter, 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.

14. The initial annual service charge shall be 7.5% of the annual gross project revenues for the housing units of the Project and 15% of all other income derived from the Project, including, but not limited to parking, laundry room, vending machines, and the like until the Project reaches 95% occupancy. Once the Project reaches 95% occupancy, the annual service charge shall be calculated based on 6.28% of the annual gross project revenues for the housing units for the Project and 15% of all other income derived from the Project, including, but not limited to parking, laundry room, vending machines, and the like.

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

- a) The Entity shall pay full taxes, as assessed, on the land and improvements of the Project until the annual service charge becomes effective; and
- b) The Entity shall not, without prior consent of the Municipal Council, convey, mortgage or transfer all, or any part of the Project (except in connection with the refinance of the Existing Mortgage with a new Agency Mortgage, as more particularly described in Section 7.01 of the Financial Agreement), so as to sever, disconnect or divide the improvements from the land embraced within the Project; and
- 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 construction of the tax abatement , dedicated to Newark residents, of which 25% of such all new employees shall be minority residents; and
- d) The Entity shall concomitantly with the submission of the Annual Report required of it by Paragraph 13 above, attach an Employment Report under oath, with particulars, stating the manner and the extent to which it has complied with Section 15(c) above. This Employment Report shall, like the Annual Report, be filed with both the Director of Finance and the Office of the City Clerk; and
- e) The Entity shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this resolution; and
- f) The Entity shall submit any and all non-residential 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 Division of Tax Abatements and Special Taxes. 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; and

- g) The Entity shall secure all financing prior to the commencement of any construction; and
- h) The Entity shall acquire title to the Property prior to this tax abatement taking effect. The Entity shall provide the Office of Assessment and the Deputy Mayor/Director of the Department of Economic and Housing Development with a copy of the deed within thirty (30) days of the date that the Entity acquires title to the Property.

16. The Entity proposes a rehabilitation of the Project, which will occur in Two Phases. Phase I is expected to be completed within six (6) months of the acquisition of the Project and not later than nine (9) months after acquisition. Phase I will consist of minor repairs to the Project in the approximate amount of \$200,000.00. The commencement of Phase II will occur upon the refinancing of the existing HMFA mortgage, which is expected to occur within eighteen (18) months of acquisition, but no later than the third quarter of 2015. The construction schedule for Phase II is expected to be twelve (12) months. The renovations to the Project for Phase II will consist of approximately \$6,000,000.00 in construction costs to the building in order to replace aging building systems and increase energy efficiency. However, the Entity's failure to commence or complete the construction of the rehabilitation stated herein shall not be grounds to terminate the tax abatement.

- (a) Prior to Phase I and Phase II, the Entity intends to undertake renovations that address the repairs listed in the Conditional Certificate of Code Compliance (the "CCC"), issued by the City, as extended and attached to the Financial Agreement, along with the list of repairs (the "CCC Repairs"). To fund the CCC Repairs, the Entity will establish an escrow in the approximate amount of \$108,068.75 with the Agency. The Entity anticipates that the CCC Repairs will be completed within ninety (90) days of acquisition. However, the Entity's failure to commence or complete CCC Repairs stated herein shall not be grounds to terminate the tax exemption.

17. The Entity shall submit to the City of Newark's Department of Economic and Housing Development or its assigned agent all documentation, which is required to submit and maintain in accordance with the terms and conditions of the financing provided by the New Jersey Housing and Mortgage Finance Agency and the New Jersey Department of Community Affairs (NJDCA) and all other sources of funding received.

18. The Entity shall submit to the City of Newark's Law Department and Department of Economic and Housing Development copies of the mortgage and all other loan documents executed between the Entity and New Jersey Housing and Mortgage Finance Agency within thirty (30) days of the closing.

19. The Office of the City Clerk of the City of Newark shall forthwith submit a certified copy of the Resolution approving the tax abatement and the proposed Financial Agreement to the Director of the Division of Local Government Services.

STATEMENT

This Resolution cancels the existing long term tax abatement granted to J.P.A. Development Association on the property commonly known as 961-985 Broad Street, Newark, New Jersey 07102 and identified on the City's Tax Map, as Block 111, Lot 75, upon conveyance of the Property to RNJ

Court Street, LLC and grants a long term tax abatement to RNJ Court Street, LLC, having its principal office located at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983 (N.J.S.A. 55:14K-1 et seq.) for a term of thirty (30) years from the date that RNJ Court Street, LLC acquires title to the Property and receives HMFA financing (i.e. assumes the Existing Mortgage or new NJHMFA Financing) for the acquisition of an existing residential project consisting of two hundred twenty-one (221) units of low-income senior housing project, inclusive of a superintendent's unit, and the Entity proposes thereafter to rehabilitate the building in the approximate amount of \$6,200,000.00 in construction costs in order to make repairs and replace aging building systems and increase energy efficiency on the Property, but failure to commence or complete the rehabilitation stated herein will not be a basis for cancelling the tax abatement by the City of Newark. (East Ward)