



## Legislation Text

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**AN ORDINANCE GRANTING A THIRTY (30) YEAR TAX ABATEMENT TO CHERRY PARK URBAN RENEWAL COMPANY LLC, 480 NORTH 4<sup>TH</sup> STREET, NEWARK, NEW JERSEY 07107, THE OWNER OF A RESIDENTIAL RENTAL PROJECT LOCATED ON PROPERTY LOCATED AT 144-178 SYLVAN AVENUE AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 839.01, LOT 32 (NORTH WARD)**

**WHEREAS**, Cherry Park Urban Renewal Company LLC, 480 North 4<sup>th</sup> Street, Newark, New Jersey 07107, filed an application with the Mayor seeking a long term tax abatement for the residential rental project consisting of two (2) three-story buildings with ninety-six (96) units of housing, fifteen (15) for low and moderate income residents on property commonly known as 144-178 Sylvan Avenue, Newark, New Jersey and identified on the official tax map of the City as Block 839.01, Lot 32 (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 No. 6PSF-A adopted May 4, 2011, Cherry Park Urban Renewal Company LLC 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 abatement 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 Cherry Park Urban Renewal Company, LLC for the development, maintenance and operation of the residential rental project consisting of two (2) three-story buildings with ninety-six (96) units of housing, fifteen (15) for low and moderate income residents and further described in the application (Exhibit No.9) is hereby approved in accordance with the recommendation of the Mayor.

2. The abatement from taxation on improvements is hereby granted to Cherry Park Urban Renewal Company, LLC for a period of thirty (30) years for the residential rental project from the date of substantial completion of the project, pursuant to *N.J.S.A. 40A:20-12*, and only so long as Cherry Park Urban Renewal Company, LLC 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 Cherry Park Urban Renewal Company, LLC does not file a petition of tax appeal for the premises 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 residential rental 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. Cherry Park Urban Renewal Company, LLC shall in the operation of the residential rental 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. Cherry Park Urban Renewal Company, LLC 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), Cherry Park Urban Renewal Company, LLC shall pay an estimated quarterly service charge to the City in the amount of \$30,629.25 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 for the affordable housing units, 10% of the annual gross revenue for the market rate housing units, and 15% of the annual gross revenue of any other project revenue 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 Cherry Park Urban Renewal Company, LLC 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. Cherry Park Urban Renewal Company, LLC 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 Cherry Park Urban Renewal Company, LLC, and the failure to comply with these requirements will result in the cancellation of the tax abatement.

(a) Cherry Park Urban Renewal Company LLC shall pay full taxes on the land and improvements of the Project (designated as Block 839.01, Lot 32), until the annual service charge becomes effective;

(b) Cherry Park Urban Renewal Company, LLC 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) Cherry Park Urban Renewal Company, LLC, pursuant to the Revised City Ordinance 10:24-1 et seq., as amended, shall be deemed to agree that if, Cherry Park Urban Renewal Company, LLC 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 abatement, dedicated to Newark residents, of which 25% of such all new employees shall be minority residents;

(d) Cherry Park Urban Renewal Company, LLC 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 Paragraph 11(c) above. This Employment Report shall be filed with the Director of Finance, the Clerk of the City of Newark, and the Director of the Department of Economic and Housing Development;

(e) Cherry Park Urban Renewal Company, LLC shall pay all outstanding taxes and all outstanding Water and Sewer charges within thirty (30) days of the adoption of this Ordinance;

(f) Cherry Park Urban Renewal Company, LLC shall complete the Project within twenty-four (24) months of the adoption of this Ordinance; provided, however, that the Deputy Mayor/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 (2) permitted six (6) 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 Deputy Mayor/Director of the Department of Economic and Housing Development;

(g) Cherry Park Urban Renewal Company, LLC 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 Cherry Park Urban Renewal Company, LLC 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) Cherry Park Urban Renewal Company, LLC 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) Cherry Park Urban Renewal Company, LLC shall receive a favorable review and Certification from the appropriate Municipal Departments and Agencies, pursuant to Municipal Ordinance 6S&FD adopted on October 21, 1992, as amended;

(j) Cherry Park Urban Renewal Company, LLC shall obtain Fee Simple Ownership to the subject property, and submit a filed copy of the Deed to the Tax Assessor's Office and the Department of Law;

(k) Cherry Park Urban Renewal Company, LLC shall secure all financing prior to the commencement of any construction.

12. That in any year that Cherry Park Urban Renewal Company, LLC 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 Cherry Park Urban Renewal Company LLC ineligible for any land tax credits against the annual service charge.

13. Cherry Park Urban Renewal Company, LLC 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 Cherry Park Urban Renewal Company, LLC to the City shall be determined pursuant to the Financial Agreement to be executed between Cherry Park Urban Renewal Company, LLC 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 abatement 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 Thirty (30) Year Term Tax Abatement to Cherry Park Urban Renewal Company, LLC, of 480 North 4<sup>th</sup> Street, Newark, New Jersey 07107, for a term of thirty (30) years for the residential rental project located on property commonly known as 144-178 Sylvan Avenue, Newark, New Jersey 07104 and identified on the Official Tax Map of the City as Block 839.01, Lot 32 in order to construct two (2) three-story buildings with ninety-six (96) units of housing, fifteen (15) for low and moderate income residents (North Ward).