



Legislation Text

File #: 13-1043, Version: 2

**AN ORDINANCE CANCELING THE LONG TERM TAX ABATEMENT GRANTED TO ESSEX PLAZA ASSOCIATES BY RESOLUTION 7RBF, JANUARY 21, 1981 UNDER THE LIMITED DIVIDEND LAW FOR AN AFFORDABLE HOUSING PROJECT ON THE PROPERTIES LOCATED AT 15-31 PENNINGTON STREET (BLOCK 893, LOTS 4 AND 6), 31-37 TICHENOR STREET (BLOCK 895, LOTS 44, 46 AND 48), 58-68 ORCHARD STREET (BLOCK 884, LOTS 1, 3, 4, 5, 6 AND 31; BLOCK 885, LOTS 41, 42 AND 43), 11 PENNINGTON STREET (BLOCK 893, LOT 2), 13 PENNINGTON STREET (BLOCK 893, LOT 3), 1078 ½ BROAD STREET (BLOCK 893, LOT 38), 1080 BROAD STREET (BLOCK 893, LOT 38), 1080 ½ BROAD STREET (BLOCK 893, LOT 36), 1082 BROAD STREET (BLOCK 893, LOT 34), 81 LINCOLN PARK (BLOCK 2826, LOT 24), AND 83 LINCOLN PARK (BLOCK 2826, LOT 25) AND GRANTING A THIRTY (30) YEAR TAX ABATEMENT TO ESSEX PLAZA II URBAN RENEWAL, LLC FOR THE REHABILITATION OF A RESIDENTIAL RENTAL AFFORDABLE HOUSING PROJECT ON THE ABOVE LISTED PROPERTIES. (EAST WARD)**

**Deferred 6PSF-f 080713/Public Hearing Open  
Deferred 6PSF-d 090513/Public Hearing Open  
Deferred 6PSF-a 091813/Public Hearing Open  
Deferred 6PSF-h 092413/Public Hearing Open  
No Action Taken 6PSF-h 100213/Public Hearing Open  
Deferred 6PSF-g 101013/Public Hearing Open  
No Action Taken 6PSF-f 102313/Public Hearing Open  
Deferred 6PSF-f 102913/Public Hearing Open  
Deferred 6PSF-f 110713/Public Hearing Open  
Deferred 6PSF-c 111813/Public Hearing Open  
Deferred 6PSF-b 120413/Public Hearing Open**

**WHEREAS**, on January 21, 1981 the Municipal Council of the City of Newark (the “Municipal Council”) adopted Resolution 7RBF granting a Long Term Tax Abatement to Essex Plaza Associates for a fifty (50) year term for the construction of an affordable housing project on the properties referenced herein in accordance with the provisions of the Limited Dividend Non-Profit Housing Corporations or Associations Law, N.J.S.A. 55:16-1 et seq. (the “Limited Dividend Law”); and

**WHEREAS**, the affordable housing project on the properties identified herein is in need of rehabilitation; and

**WHEREAS**, Essex Plaza II Urban Renewal Company, LLC, an urban renewal entity with an address of c/o Essex Management Company, LLC, 1060 Broad Street, Newark, New Jersey 07102 (the “Entity”), filed an Application with the Mayor seeking a Long Term Tax Abatement pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq. for the rehabilitation of a residential rental affordable housing project on the following properties:

Block 893, Lots 4, 6

15-31 Pennington Street, Newark, NJ

Block 895, Lots 44, 46, 48  
Block 884, Lots 1, 3, 4, 5, 6, 31 and  
Block 885, Lots 41, 42, 43  
Block 893, Lot 2  
Block 893, Lot 3  
Block 893, Lot 38  
Block 893, Lot 37  
Block 893, Lot 36  
Block 893, Lot 34  
Block 2826, Lot 24  
Block 2826, Lot 25

31-37 Tichenor Street, Newark, NJ  
58-68 Orchard Street, Newark, NJ  
11 Pennington Street, Newark, NJ  
13 Pennington Street, Newark, NJ  
1078 ½ Broad Street, Newark, NJ  
1080 Broad Street, Newark, NJ  
1080 ½ Broad Street, Newark, NJ  
1082 Broad Street, Newark, NJ  
81 Lincoln Park, Newark, NJ  
83 Lincoln Park, Newark, NJ

(the “Property”); and

**WHEREAS**, the Entity intends the rehabilitation of a residential rental affordable housing project on the Property consisting of conversion of ten (10) housing units into handicap-adaptable units, as described more fully within the Application (as such term is defined herein)(collectively, the “Project”); 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 on 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 the Project outweigh any costs associated with this tax abatement and that without the tax abatement granted herein, the Project would not be undertaken; and

**WHEREAS**, Essex Plaza Associates has indicated that it wishes to cancel the tax abatement granted on January 21, 1981 under Resolution 7RBF as of the date of substantial completion of the Project (as such term is defined herein).

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

1. The Long Term Tax Abatement granted on January 21, 1981 to Essex Plaza Associates under Resolution 7RBF is hereby canceled as of the date of substantial completion of the rehabilitation Project by Essex Plaza II Urban Renewal Company, LLC.
2. The Application of Essex Plaza II Urban Renewal Company, LLC, an urban renewal entity with an address of c/o Essex Management Company, LLC, 1060 Broad Street, Newark, New Jersey 07102 (the “Entity”) for the development, maintenance and operation of the Project described in the Application is hereby approved in accordance with the recommendation of the Mayor.

3. The Abatement from taxation on the improvements constructed for the Project is hereby granted to the Entity for a period of thirty (30) years 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.

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

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

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

7. 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.

8. 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.

9. 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.

10. Subject to the requirements of Paragraph 11 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 \$44,805.50 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 for the initial phase shall be based on 6.28% of the annual gross revenue for the affordable 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 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.

11. 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 10 above, would be less than the minimum annual service charge.

12. 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 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;

(b) 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 abatement, dedicated to Newark residents, of which 25% of such all new employees shall be minority residents;

(c) 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 12(b) above. This Employment Report shall be filed with the Director of Finance, the City Clerk of the City of Newark, and the Deputy Mayor/Director of the Department of Economic and Housing Development;

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

(e) The Entity shall complete the Project within twenty-four (24) months of the date 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;

(f) 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;

(g) 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;

(h) The Entity 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; and

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

13. 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.

14. 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.

15. The Office of the City Clerk 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.

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

### **STATEMENT**

Ordinance canceling long term tax abatement granted to Essex Plaza Company by Resolution 7RBF, January 21, 1981, for affordable housing project on properties listed below as of the date of substantial completion, of the Project by Essex Plaza II Urban Renewal Company, LLC in accordance with the provisions of the Limited Dividend Non-Profit Housing Corporations or Associations Law, N.J.S.A. 55:16-1 et seq. and granting a Thirty (30) Year Long Term Tax Abatement to Essex Plaza II Urban Renewal Company, LLC, an urban renewal entity with an address of c/o Essex Management Company, LLC, 1060 Broad Street, Newark, New Jersey 07102 pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq. for the rehabilitation of a residential rental affordable housing project consisting of conversion of ten (10) housing units into handicap-adaptable units. (East Ward)

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Block 885, Lots 41, 42, 43

Block 893, Lot 2

Block 893, Lot 3

Block 893, Lot 38

Block 893, Lot 37

Block 893, Lot 36

Block 893, Lot 34

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