



Legislation Details (With Text)

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On agenda: 4/10/2012 **Final action:** 4/30/2012
Title: AN ORDINANCE GRANTING A THIRTY (30) YEAR TAX EXEMPTION TO SOMERSET BROWNSTONES URBAN RENEWAL ASSOCIATES, L.P., THE OWNER OF A RESIDENTIAL RENTAL AFFORDABLE HOUSING PROJECT LOCATED ON PROPERTY IDENTIFIED AS PROPOSED BLOCK 2556, LOT 1.02 ON A MAP ENTITLED "AMENDED MAJOR SUBDIVISION PLAT EXISTING TAX LOTS 1, 61 AND 62 IN BLOCK 2556 PROPOSED TAX LOTS 1.01, 1.02 & 1.03 OM BLOCK 2556 SITUATED IN THE CITY OF NEWARK, ESSEX COUNTY, NEW JERSEY" PREPARED BY BIRDSALL SERVICES GROUP, INC. DATED JANUARY 31, 2012, MORE COMMONLY KNOWN AS 50-76 BARCLAY STREET AND 25-49 SOMERSET STREET. Central Ward.

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
4/30/2012	1	Municipal Council	adopted on second reading and final passage	Pass
4/18/2012	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

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**DATED JANUARY 31, 2012, MORE COMMONLY KNOWN AS 50-76
BARCLAY STREET AND 25-49 SOMERSET STREET. Central Ward.**

WHEREAS, Somerset Brownstones Urban Renewal Associates, L.P., an urban renewal entity with an address of 3 East Stow Road, Marlton, New Jersey 08053 filed an application with the Mayor seeking a long term tax exemption for the residential rental affordable housing project on land identified as proposed Block 2556, Lot 1.02 on a map entitled "Amended Major Subdivision Plat Existing Tax Lots 1, 61, and 62 in Block 2556 Proposed Tax Lots 1.01, 1.02 & 1.03 in Block 2556 Situated in the City of Newark, Essex County, New Jersey" prepared by Birdsall Services Group, Inc. dated January 31, 2012, more commonly known and identified by the street addresses of 50-76 Barclay Street and 25-49 Somerset Street, Newark, New Jersey (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 050411 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, Old Third Ward Development LLC, in accordance with the terms of the Redevelopment Agreement, will enter into a long term leasehold interest for 99 years with Somerset Brownstones Urban Renewal Associates, L.P. for the Property; 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 exemption 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 Somerset Brownstones Urban Renewal Associates, L.P., 3 East Stow Road, Marlton, New Jersey 08053, for the development, maintenance and operation of the residential rental affordable housing project 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 Somerset Brownstones Urban Renewal Associates, L.P. for a period of thirty (30) years for the residential rental affordable housing project from the date of substantial completion of the project, pursuant to N.J.S.A. 40A:20-12, and only so long as Somerset Brownstones Urban Renewal Associates, L.P. 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 Somerset Brownstones Urban Renewal Associates, L.P. 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 affordable housing 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. Somerset Brownstones Urban Renewal Associates, L.P. shall in the operation of the residential rental affordable housing 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. Somerset Brownstones Urban Renewal Associates, L.P. 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), Somerset Brownstones Urban Renewal Associates, L.P. shall pay an estimated quarterly service charge to the City in the amount of \$10,762.00 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 for the housing units and 15% of the annual gross revenue for all other project income 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 Somerset Brownstones Urban Renewal Associates, L.P. 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. Somerset Brownstones Urban Renewal Associates, L.P. 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 exemption, to be performed by Somerset Brownstones Urban Renewal Associates, L.P., and the failure to comply with these requirements will result in the cancellation of the tax exemption:

(a) Somerset Brownstones Urban Renewal Associates, L.P. shall pay full taxes on the land and improvements of the project (designated as Block 2556, Lot 1.02), until the annual service charge becomes effective;

(b) Somerset Brownstones Urban Renewal Associates, L.P. 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) Somerset Brownstones Urban Renewal Associates, L.P., pursuant to the Revised Ordinances of the City of Newark, 10:24-1 et seq., as amended, shall be deemed to agree

that if Somerset Brownstones Urban Renewal Associates, L.P. 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) Somerset Brownstones Urban Renewal Associates, L.P. 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 Clerk of the City of Newark, and the Director of the Department of Economic and Housing Development;

(e) Somerset Brownstones Urban Renewal Associates, L.P. shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this ordinance;

(f) Somerset Brownstones Urban Renewal Associates, L.P. shall complete the construction of the project within twenty four (24) months of the date of issuance of a Notice to Proceed by the Deputy Mayor/Director of the Department of Economic and Housing Development; 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 six 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 Deputy Mayor/Director of the Department of Economic and Housing Development;

(g) Somerset Brownstones Urban Renewal Associates, L.P. 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 Somerset Brownstones Urban Renewal Associates, L.P. to the Law Department and the Department of Economic and Housing Development. The obligation to submit such lease agreements shall be a continuing obligation during the period of the Financial Agreement. All such 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) Somerset Brownstones Urban Renewal Associates, L.P. 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) Somerset Brownstones Urban Renewal Associates, L.P. shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to Municipal Ordinance 6S&FD 102192, as amended;

(j) Somerset Brownstones Urban Renewal Associates, L.P., in accordance with the terms of the Redevelopment Agreement, will enter into a long term leasehold interest with Old Third Ward Development LLC for 99 years for the Property, and submit a copy of the lease to the Tax Assessor's Office and the Department of Law;

(k) Somerset Brownstones Urban Renewal Associates, L.P. shall secure all financing prior to the commencement of any construction;

(l) Somerset Brownstones Urban Renewal Associates, L.P., in accordance with the terms of the Redevelopment Agreement, will enter into a long term leasehold interest with Old Third Ward Development LLC for 99 years for the Property prior to this tax exemption taking effect. The Deputy Mayor/Director of Economic and Housing Development shall not issue a Notice to Proceed for this project until Somerset Brownstones Urban Renewal Associates, L.P. provides the Deputy Mayor/Director of Economic and Housing Development with the following documents: (i) a signed lease and such other documents as are reasonably required by the Deputy Mayor/Director of Economic and Housing Development evidencing the long term leasehold interest to the Property to Somerset Brownstones Urban Renewal Associates, L.P.; and (ii) an executed assignment agreement evidencing assignment of the obligations set forth within the Redevelopment Agreement relating to the Property between the City and Old Third Ward Development, LLC to Somerset Brownstones Urban Renewal Associates, L.P.

12. That in any year that Somerset Brownstones Urban Renewal Associates, L.P. 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 Somerset Brownstones Urban Renewal Associates, L.P. ineligible for any land tax credits against the annual service charge.

13. Somerset Brownstones Urban Renewal Associates, L.P. 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 Somerset Brownstones Urban Renewal Associates, L.P. to the City shall be determined pursuant to the Financial Agreement to be executed between Somerset Brownstones Urban Renewal Associates, L.P. 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

Long Term Tax Exemption granted to Somerset Brownstones Urban Renewal Associates, L.P. for a term of thirty (30) years for the residential rental affordable housing project located on property identified as proposed Block 2556, Lot 1.02 on a map entitled "Amended Major Subdivision Plat Existing Tax Lots 1, 61, and 62 in Block 2556 proposed Tax Lots 1.01, 1.02 & 1.02 in Block 2556 Situated in the City of Newark, Essex County, New Jersey" prepared by Birdsall Services Group, Inc. dated January 31, 2012, more commonly known and identified by the street addresses of 50-76 Barclay Street and 25-49 Somerset Street, Newark, New Jersey.