Legislation Details (With Text)

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File created:	5/24/2013		**In control:**	Economic and Housing Development	
On agenda:	7/11/2013		**Final action:**	1/8/2014	

Title: AN ORDINANCE CANCELING THE LONG TERM TAX ABATEMENT GRANTED VIA RESOLUTION 7R-CV AUGUST 4, 1976, TO ESSEX PLAZA COMPANY UNDER THE LIMITED DIVIDEND LAW FOR AN AFFORDABLE HOUSING PROJECT LOCATED AT 1056-1070 BROAD STREET AND IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY AS BLOCK 892, LOT 1 AND GRANTING A THIRTY (30) YEAR TAX ABATEMENT TO ESSEX PLAZA URBAN RENEWAL, LLC UNDER THE LONG TERM TAX EXEMPTION LAW FOR THE REHABILITATION OF THE RESIDENTIAL RENTAL AFFORDABLE HOUSING PROJECT ON SAID PROPERTY (EAST WARD)
Deferred 6PSF-g 080713/Public Hearing Open
Deferred 6PSF-e 090513/Public Hearing Open
Deferred 6PSF-b 091813/Public Hearing Open
Deferred 6PSF-i 092413/Public Hearing Open
No Action Taken 6PSF-i 100213/Public Hearing Open
Deferred 6PSF-h 101013/Public Hearing Open
No Action Taken 6PSF-g 102313/Public Hearing Open
Deferred 6PSF-g 102913/Public Hearing Open
Deferred 6PSF-g 110713/Public Hearing Open
Deferred 6PSF-d 111813/Public Hearing Open
Deferred 6PSF-c 120413/Public Hearing Open
Deferred 6PSF-c 121813/Public Hearing Open

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
1/8/2014	3	Municipal Council	Close on Public Hearing and Adopt	Pass
12/18/2013	3	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
12/4/2013	3	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
11/18/2013	3	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
11/7/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
10/29/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
10/23/2013	2	Municipal Council	no action taken	
10/17/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
10/10/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
10/2/2013	2	Municipal Council	no action taken	
9/24/2013	2	Municipal Council	maintained on public hearing and	Pass

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			deferred to Special meeting	
9/18/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
9/5/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
8/7/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
7/23/2013	2	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
7/11/2013	2	Municipal Council	Advance to First Reading	Pass
7/11/2013	2	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE CANCELING THE LONG TERM TAX ABATEMENT GRANTED VIA RESOLUTION 7R-CV AUGUST 4, 1976, TO ESSEX PLAZA COMPANY UNDER THE LIMITED DIVIDEND LAW FOR AN AFFORDABLE HOUSING PROJECT LOCATED AT 1056-1070 BROAD STREET AND IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY AS BLOCK 892, LOT 1 AND GRANTING A THIRTY (30) YEAR TAX ABATEMENT TO ESSEX PLAZA URBAN RENEWAL, LLC UNDER THE LONG TERM TAX EXEMPTION LAW FOR THE REHABILITATION OF THE RESIDENTIAL RENTAL AFFORDABLE HOUSING PROJECT ON SAID PROPERTY (EAST WARD)
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Deferred 6PSF-d 111813/Public Hearing Open
Deferred 6PSF-c 120413/Public Hearing Open
Deferred 6PSF-c 121813/Public Hearing Open

WHEREAS, on August 4, 1976, the Municipal Council of the City of Newark (the "Municipal Council") adopted Resolution 7RC-V, granting a long term tax exemption to Essex Plaza Company for a fifty (50) year term for the construction of an affordable housing project on property located at 1056-1070 Broad Street, Newark, New Jersey and identified on the official tax map of the City as Block 892, Lot 1 (the "Property") 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 Property is in need of rehabilitation; and

WHEREAS, Essex Plaza 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"), has taken title to the Property and has 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 the residential rental affordable housing project on the Property, consisting of the conversion of twenty-three (23) housing units into handicap-adaptable units and the installation of

a new boiler and new boiler controls, a generator, and solar, geothermal, and water conservation mechanisms, all 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 No. 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 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 Urban Renewal Company, LLC> has indicated that it wishes to cancel the tax exemption granted under Resolution 7R-CV 080476 as of the date of substantial completion of the Project (as such term is defined in the Financial Agreement) .

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

1. The long term tax abatement granted to Essex Plaza Company under Resolution 7R-CV, adopted on August 4, 1976, is hereby canceled as of the date of substantial completion of the rehabilitation Project by Essex Plaza Urban Renewal Company, LLC.

2. The application of Essex Plaza 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 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 $78,717.75 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 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 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.

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

STATEMENT

Cancellation of a Long Term Tax Abatement granted to Essex Plaza Company via Resolution 7R-CV

080476. on the property commonly known as 1056-1070 Broad Street, Newark, New Jersey and identified on the official tax map of the City as Block 892, Lot 1, as of the date of substantial completion of the rehabilitation Project by Essex Plaza Urban Renewal Company, LLC; and granting a Long Term Tax Abatement to Essex Plaza 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 a term of thirty (30) years for the rehabilitation of the residential rental affordable housing project on property commonly known as 1056-1070 Broad Street, Newark, New Jersey and identified on the official tax map of the City as Block 892, Lot 1, consisting of the conversion of twenty-three (23) housing units into handicap-adaptable units and the installation of a new boiler and new boiler controls, a generator, and solar, geothermal, and water conservation mechanisms, all as described more fully within the application. (East Ward)

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