



## Legislation Details (With Text)

**File #:** 14-0101      **Version:** 1      **Name:** Horizon Tax Abatement (Three Penn Plaza)  
**Type:** Ordinance      **Status:** Filed  
**File created:** 1/24/2014      **In control:** Economic and Housing Development  
**On agenda:** 5/20/2014      **Final action:** 6/24/2014  
**Title:** AN ORDINANCE GRANTING A FIFTEEN (15) YEAR TAX ABATEMENT TO THREE PENN PLAZA PROPERTY HOLDINGS URBAN RENEWAL, LLC, THE OWNER OF A COMMERCIAL PROJECT ON PROPERTY LOCATED AT THREE PENN PLAZA EAST, 943-973 RAYMOND BOULEVARD AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 170, LOT 13. (EAST WARD)  
Sponsors: Amador and Gonzalez  
No Action Taken, June 18, 2014  
**Sponsors:** Council of the Whole

### Indexes:

### Code sections:

Date	Ver.	Action By	Action	Result
6/24/2014	1	Municipal Council	Close on Public Hearing and Adopt	Pass
6/18/2014	1	Municipal Council	No Action Taken	
6/5/2014	1	Municipal Council	Adopt on First Reading	Pass
5/20/2014	1	Municipal Council	Advance to First Reading	Pass

**AN ORDINANCE GRANTING A FIFTEEN (15) YEAR TAX ABATEMENT TO THREE PENN PLAZA PROPERTY HOLDINGS URBAN RENEWAL, LLC, THE OWNER OF A COMMERCIAL PROJECT ON PROPERTY LOCATED AT THREE PENN PLAZA EAST, 943-973 RAYMOND BOULEVARD AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 170, LOT 13. (EAST WARD)**

**Sponsors: Amador and Gonzalez**

**No Action Taken, June 18, 2014**

**WHEREAS**, Three Penn Plaza Property Holdings Urban Renewal, LLC, 3 Penn Plaza East, 943-973 Raymond Blvd., Newark, New Jersey 07105 (the "Entity"), filed an application with the Mayor seeking a long term tax abatement under the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq. (the "LTTE") for a commercial project on real property located at Three Penn Plaza, 943-973 Raymond Blvd., Newark, New Jersey 07105 and identified on the official tax map of the City as Block 170, Lot 13 (the "Property"), consisting of the substantial rehabilitation of fourteen (14) floors of the existing office building on the Property, including base building improvements, new roof construction, the installation of new high-efficiency windows and lighting, and vertical transportation (elevator) improvements, all as described more fully within the application (collectively, the "Project");

**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 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 Three Penn Plaza Property Holdings Urban Renewal, LLC, 3 Penn Plaza East, 943-973 Raymond Blvd., Newark, New Jersey 07105 (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.

2. This tax abatement is hereby granted to the Entity for the Project for a period of fifteen (15) 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 LTTE, 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.

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 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 for construction activities 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. 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. 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 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.

8. Subject to the requirements of paragraph 9 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 \$ 995,750.00 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 3.5% of the Total Project Cost or \$3,984,447.00, whichever amount is greater, as set forth more fully within 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.

9. 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 8 above, would be less than the minimum annual service charge.

10. 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 pay full taxes on the land and improvements of the Project (designated as Block 170, Lot 13) until the annual service charge becomes effective;

(b) 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;

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

(d) the Entity shall complete the Project within twenty-four (24) months of the adoption of this ordinance; provided, however, that the Acting 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;

(e) 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;

(f) the Entity shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to Municipal Ordinance 6S&FD 102192, as amended; and

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

(h) 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 6 and 7 above. This employment report shall be filed with the Acting Director of Finance, the City Clerk of the City of Newark and the Acting Director of the Department of Economic and Housing Development.

11. 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.

12. 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.

13. 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.

14. To the extent of any inconsistency with any prior City ordinance and/or Municipal Code provision governing the granting of long-term tax exemptions, including, *inter alia*, procedures for application, review and approval, required terms of the financial agreement, required conditions and covenants, limits on duration, means of enforcement, and all other matters whatsoever, such prior City ordinances and/or Municipal Code provisions are hereby waived (or, alternatively, shall be deemed to be amended and/or superseded by this Ordinance) to the extent of such inconsistency, but only with respect to this Ordinance.

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 long term tax abatement to Three Penn Plaza Property Holdings Urban Renewal, LLC, 3 Penn Plaza East, 943-973 Raymond Blvd., Newark, NJ 07105, under the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq. for a commercial project on real property located in the East Ward at Three Penn Plaza, 943-973 Raymond Blvd., Newark, New Jersey 07105 and identified on the official tax map of the City as Block 170, Lot 13 (the "Property"), consisting of the substantial rehabilitation of fourteen (14) floors of the existing office building on the Property. (East Ward)