



## Legislation Text

File #: 13-1705, Version: 1

**AN ORDINANCE GRANTING A FIFTEEN (15) YEAR TAX ABATEMENT TO LOFTS @ LINCOLN PARK URBAN RENEWAL LLC, THE OWNER OF A RESIDENTIAL CONDOMINIUM PROJECT LOCATED ON PROPERTY COMMONLY KNOWN AS 90-96 CLINTON AVENUE (AKA 7-9 THOMAS STREET) AND 21-33 BRUNSWICK STREET, NEWARK, NEW JERSEY 07114 AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 2826, LOTS 3 (FORMERLY LOTS 2, 4, 5, 6 AND 42), 35, 36, 37 AND 38. (EAST WARD)**

**No Action Taken 8-a (s) 100813**

**No Action Taken 8-c 101013**

**Due to advertising, Public Hearing will be held at the October 29, 2013, Special Meeting**

**No Action Taken 6PSF-i 102313/Public Hearing Open**

**AN ORDINANCE GRANTING A FIFTEEN (15) YEAR TAX ABATEMENT TO LOFTS @ LINCOLN PARK URBAN RENEWAL LLC, THE OWNER OF A RESIDENTIAL CONDOMINIUM PROJECT LOCATED ON PROPERTY COMMONLY KNOWN AS 90-96 CLINTON AVENUE (AKA 7-9 THOMAS STREET) AND 21-33 BRUNSWICK STREET, NEWARK, NEW JERSEY 07114 AND IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 2826, LOTS 3 (FORMERLY LOTS 2, 4, 5, 6 AND 42), 35, 36, 37 AND 38. (EAST WARD)**

**WHEREAS**, Lofts @ Lincoln Park Urban Renewal, LLC, of 11 Florence Place, West Orange, New Jersey 07052, filed an application with the Mayor seeking a long term tax abatement for a residential condominium project consisting of the construction of a four story building which will include twenty-four (24) condominium units along with landscaped recreation space (the "Project") on property commonly known as 90-96 Clinton Avenue (AKA 7-9 Thomas Street) and 27-33 Brunswick Street, Newark, New Jersey 07114 and identified on the Official Tax Map of the City as Block 2826, Lots 3 (formerly Lots 2, 4, 5, 6, and 42), 35, 36, 37 and 38 (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 by the Newark Municipal Council, Lofts @ Lincoln Park Urban Renewal, 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 Lofts @ Lincoln Park Urban Renewal, LLC, of 11 Florence Place,

West Orange, New Jersey 07052 for the development, maintenance and operation of a residential condominium project consisting of the construction of a four story building which will include twenty-four (24) condominium units along with landscaped recreation space ( the Project), 90-96 Clinton Avenue(AKA 7-9 Thomas Street) and 27-33 Brunswick Street, Newark, New Jersey 07114, described in the tax abatement application is hereby approved in accordance with the recommendation of the Mayor.

2. The tax abatement from taxation on improvements is hereby granted to Lofts @ Lincoln Park Urban Renewal, LLC for a period of fifteen (15) years for the Project from the date of substantial completion of the Project, pursuant to *N.J.S.A. 40A:20-12*, and only so long as Lofts @ Lincoln Park Urban Renewal, 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 Lofts @ Lincoln Park Urban Renewal, LLC 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 Office of 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 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. Lofts @ Lincoln Park Urban Renewal, LLC 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.

8. Lofts @ Lincoln Park Urban Renewal, 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 Office of 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), Lofts @ Lincoln Park Urban Renewal, LLC shall pay an estimated quarterly service charge to the City in the amount of \$4,800.00 until the correct amount due from Lofts @ Lincoln Park Urban Renewal, LLC 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 10% of the Annual Gross Revenue from the residential condominium units and 15% of all other income (if any) generated by the Project 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 Lofts @ Lincoln Park Urban Renewal, 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. Lofts @ Lincoln Park Urban Renewal, 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 Lofts @ Lincoln Park Urban Renewal, LLC, and the failure to comply with these requirements will result in the cancellation of the tax abatement:

(a) Lofts @ Lincoln Park Urban Renewal, LLC shall pay full taxes on the land and improvements of the Project (designated as Block 2826, Lots 3 (formerly Lots 2, 4, 5, 6, and 42), 35, 36, 37 and 38), until the annual service charge becomes effective; and

(b) With the exception of the sale of residential condominium units to Residential Unit Purchasers, Lofts @ Lincoln Park Urban Renewal, 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; and

(c) Lofts @ Lincoln Park Urban Renewal, LLC, pursuant to the *Revised City Ordinance 10:24-1 et seq.*, as amended, shall be deemed to agree that, if Lofts @ Lincoln Park Urban Renewal, 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 exemption, dedicated to Newark residents, of which 25% of such all new employees shall be minority residents; and

(d) Lofts @ Lincoln Park Urban Renewal, 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 11(c) above. This Employment Report shall be filed with the Director of Finance, the Office of the City Clerk, and the Director of the Department of Economic and Housing Development; and

(e) Lofts @ Lincoln Park Urban Renewal, LLC shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this Ordinance; and

(f) Lofts @ Lincoln Park Urban Renewal, LLC shall complete the Project within twenty-four (24) months of the 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 (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 Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development; and

(g) Lofts @ Lincoln Park Urban Renewal, 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 Lofts @ Lincoln Park Urban Renewal, 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; and

(h) Lofts @ Lincoln Park Urban Renewal, 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; and

(i) Lofts @ Lincoln Park Urban Renewal, LLC shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to Municipal Ordinance 6S&FD 102192, as amended; and

(j) Lofts @ Lincoln Park Urban Renewal, LLC shall obtain fee simple ownership to the Property prior to this tax abatement taking effect and shall submit a recorded copy of the deed to the Deputy Mayor/Director of the Department of Economic and Housing Development, the Tax Assessor, the Office of the City Clerk and the Corporation Counsel. The Deputy Mayor/Director of Economic and Housing Development shall not issue a Notice to Proceed for this Project until Lofts @ Lincoln Park Urban Renewal, LLC provides the Deputy Mayor/Director of Economic and Housing Development with a copy of the recorded deed and such other documents as are reasonably required by the Deputy Mayor/Director of Economic and Housing Development evidencing the transfer of the a fee simple interest in the Property to Lofts @ Lincoln Park Urban Renewal, LLC; and

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

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

13. Lofts @ Lincoln Park Urban Renewal, LLC understands and agrees that the revenue projections set forth in the tax abatement application are estimates and that the actual payments in lieu of taxes to be paid by Lofts @ Lincoln Park Urban Renewal, LLC to the City shall be determined pursuant to the Financial Agreement to be executed between Lofts @ Lincoln Park Urban Renewal, LLC and the City of Newark.

14. 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.

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 Fifteen (15) Year Long-term tax abatement to Lofts @ Lincoln Park Urban Renewal, LLC, of 11 Florence Place, West Orange, New Jersey 07052, for a residential condominium project consisting of the construction of a four story building which will include twenty-four (24) condominium units, along with landscaped recreation space on property commonly known as 90-96 Clinton Avenue(AKA 7-9 Thomas Street) and 27-33 Brunswick Street, Newark, New Jersey 07114 and identified on the Official Tax Map of the City as Block 2826, Lots 3 (formerly Lots 2, 4, 5, 6, and 42), 35, 36, 37 and 38. (East Ward)