

O-17-52
10/18/17

ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON, NEW JERSEY AUTHORIZING FIVE (5) YEAR TAX EXEMPTION ON THE ASSESSED VALUE OF NEW IMPROVEMENTS ONLY FOR NEWLY CONSTRUCTED RESIDENTIAL UNITS WITH RESPECT TO THE PARCEL OF LAND LOCATED AT BLOCK 445, LOT 6 (A/K/A 172 AVENUE F) ON THE TAX MAP OF THE CITY OF BAYONNE.

WHEREAS, the City of Bayonne, in the County of Hudson, New Jersey (the "City"), a public body corporate and politic of the State of New Jersey, is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law") to determine whether certain parcels of land within the City constitute an area in need of rehabilitation or an area in need of redevelopment; and

WHEREAS, on February 4, 1998 by resolution No. 98-02-04-040 the entire City was designated as an area in need of rehabilitation pursuant to the Redevelopment Law; and

WHEREAS, pursuant to the Five Year Exemption and Abatement Law, *N.J.S.A. 40A:21-1 et seq.* (the "Five Year Law") improvements to property located within an area in need of rehabilitation or redevelopment may qualify for short term tax exemptions; and

WHEREAS, on May 22, 2013 the Municipal Council adopted Ordinance No. O-13-15 authorizing tax exemptions for the construction of 'multiple dwellings' (as defined in the Hotel and Multiple Dwelling Law, *N.J.S.A. 55:13A-1 et seq.*) in the City as authorized under *N.J.S.A. 40A:21-8* of the Five Year Law; and

WHEREAS, 172 AVENUE F, LLC is the owner of and has developed a parcel of land located at BLOCK 445, LOT 6, (with a property address commonly known as "172 AVENUE F" which is also known as the "Project Area") on the tax map of the City and constructed or will cause to be constructed thereon certain real estate improvements consisting of residential development with 18 residential units on the second through sixth levels, a fitness center for residents and ground floor parking for twenty-one (21) cars with a three (3) level vehicle lift system (the "Project"); and

WHEREAS, 172 AVENUE F, LLC has submitted an application to the City requesting a tax exemption under the Five Year Law for itself and/or on behalf of the new owners of the residential units seeking a 5 year exemption agreement on the improvements; and

WHEREAS, the Municipal Council has determined that the authorization of a tax exemption for the aforesaid Project is in the best interests of the City and facilitates the goals of rehabilitation and productive use;

NOW THEREFORE BE IT ORDAINED, by the Municipal Council of the City of Bayonne, in the County of Hudson, New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Municipal Council hereby approves an individual tax agreement for the exemption of real estate taxes on the parcel set forth above and any future sublots created by virtue of the development thereof in the Project Area allowing for a 5 Year exemption on the improvement on each individual parcel substantially in the form attached to this Ordinance and shall calculate payments in lieu of taxes in accordance with the tax phase-in basis and be in the form substantially as provided in **Exhibit A** also attached hereto. Each such agreement is intended to apply to the individual parcel involved for the five years following substantial completion of the property provided that the terms of the agreement are met and shall be executed with respect to each such parcel by the owner of that parcel following the effective date of this ordinance. Each such Tax Agreement shall be for no longer than five (5) years and only applicable to the assessed value of the new improvement (building) constructed on that parcel as such value is determined by the City Tax Assessor. Each such Tax Agreement shall also provide that; at all relevant times herein, the land values (land assessment) for the Project will NOT be subject to any Exemption or Abatement and that Land Taxes paid in full throughout any period of exemption on the improvement. If the effective date of this ordinance is subsequent to the date of substantial completion, the exemption shall nonetheless be credited from the first day of the month following substantial completion provided that the application was timely filed within 30 days of substantial completion and all other terms of the agreement are met. If the date of substantial completion should be prior to the effective date of this ordinance, the Mayor, in consultation with legal counsel to the City, is hereby authorized to execute each of these Tax Agreements, with such modifications or revisions deemed necessary by the Mayor, and to prepare, amend or execute any other agreements necessary to effectuate the Tax Agreement and this Ordinance.

Section 3. Within thirty (30) days of its execution, the City Clerk shall forward a copy of the Tax Agreement to the Director of the Division of Local Government Services in the Department of Community Affairs as prescribed by *N.J.S.A. 40A:21-11(d)*.

Section 4. If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

Section 5. This Ordinance shall take effect in accordance with all applicable laws.

EXHIBIT A

TAX AGREEMENT

THIS TAX AGREEMENT (hereinafter "Agreement" or "Tax Agreement"), made this ____ day of _____, 2017 by and between CITY OF BAYONNE, a municipal corporation of the State of New Jersey (the "State") with offices at 630 Avenue C, Bayonne, New Jersey, 07002 (the "City") and 172 Ave F, LLC, a New Jersey limited liability company with offices at c/o Stonegate Realty, LLC, 386 Rt. 59, Suite 201, Airmont, New York 10952, and its respective successors and assigns (the "Redeveloper").

WITNESSETH:

WHEREAS, the Municipal Council of the City (the "Municipal Council") has adopted an ordinance designating the entire City as an area in need of rehabilitation under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law");

WHEREAS, the Municipal Council has designated the area commonly known as Block 445, Lot 6 on the tax map of the City (the "Project Area," as further described on Schedule 1 attached hereto) as a Transit Development Overlay District (TDO) where 6-story multifamily dwellings are permitted uses; and

WHEREAS, pursuant to and in accordance with the provisions of the Five-Year Exemption and Abatement Law, *N.J.S.A. 40A:21-1 et seq.* (the "Tax Exemption Law" and together with the Redevelopment Law, the "Acts"), the City is authorized to provide for a tax exemption and for payments in lieu of taxes in an area in need of rehabilitation or area in need of redevelopment; and

WHEREAS, on December 10, 2014, the Municipal Council adopted Ordinance O-14-42 permitting tax exemptions for the construction of multiple dwellings and commercial and industrial structures (as such term is defined in the Tax Exemption Law) in the City and authorizing tax agreements for same; and

WHEREAS, the Redeveloper has submitted an application to the City for a tax exemption, all in accordance with the Tax Exemption Law, including without limitation *N.J.S.A. 40A:21-9* (the "Exemption Application", a copy of which is attached hereto as Exhibit A and the Exemption Application was accepted and approved pursuant to Ordinance O-_____ of the Municipal Council duly adopted on _____ (the "Ordinance," attached hereto as Exhibit B) which authorized the execution of a tax agreement with the Redeveloper; and

WHEREAS, the City and the Redeveloper have reached agreement with respect to, among other things, the terms and conditions relating to the tax exemption and payments in lieu of taxes and desire to execute this Tax Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually covenanted and agreed as follows:

