

TOWN OF WEST NEW YORK
County of Hudson

ORDINANCE # 13/17

AN ORDINANCE APPROVING A FIVE (5) YEAR TAX EXEMPTION FOR MULTIPLE DWELLING RENTAL PROJECT CONSTRUCTED BY 5208-5214 POLK STREET, LLC, 5208-10 AND 5212-14 POLK STREET, PURSUANT TO THE PROVISION OF THE FIVE (5) YEAR EXEMPTION AND ABATEMENT LAW, N.J.S.A. 40A:21-1 ET SEQ. AND SECTION 364-14 OF THE CODE OF THE TOWN OF WEST NEW YORK

WHEREAS, **5208-5214 Polk Street, LLC** (the "Entity") owns certain property known as **Block 109, Lots 25 and 26**, on the Town's Official Tax map, (the "Property"), commonly known as **5208-10 and 5212-14 Polk Street**, West New York, NJ; and

WHEREAS, the Property is located in the Town of West New York, within an area declared to be in need of rehabilitation; and

WHEREAS, the Entity has filed an application ("Application") for a tax exemption for the project involving the construction of **20 residential rental units in one building** ("the Project"); and

WHEREAS, the Town of West New York is authorized to adopt an ordinance to utilize tax exemptions/abatements pursuant to N.J.S.A. 40A:21-1 et. seq., the Five (5) Year Exemption and Abatement Law in an area declared to be in need of rehabilitation pursuant to the N.J.S.A. 40A:12A-14, and N.J.S.A. 40A:21-1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 40A:21-1 et seq., the Town of West New York adopted Ordinances 11/07 an Ordinance entitled Five Year Tax Abatement Ordinance amended by Ordinance 23/16 ("the Ordinance") to allow Five (5) Year Tax exemptions which allows the town to enter into a tax agreement with applicant for the exemption and abatement of local real estate property taxes and the payment of an amount in lieu of full property taxes;

WHEREAS, pursuant to N.J.S.A. 40A:21-1 et seq., and Section 364-14 of the Ordinance as codified and as amended, a tax exemption for new construction of multiple dwellings is permissible; and

WHEREAS, under the five-year tax exemption, the Entity is required to pay the Town (in addition to the full taxes on the land, which shall continue to be conventionally assessed and taxed) a payment in lieu of taxes for the new improvements on the Property; and

WHEREAS, the application for tax exemption was completed as required by the Ordinance; and

WHEREAS, the Property in 2016 generated approximately **\$14,754** in taxes, approximately **\$9,783** of which represents taxes on the land; and

WHEREAS, upon review of the application the Board of Commissioners has determined that the proposed Project Improvements are eligible for tax exemption pursuant to N.J.S.A. 40A:21-9 and the Ordinance; and

WHEREAS, on that basis and under the five-year tax exemption, the Entity would be required to pay the Town (in addition to the full taxes on the land, which shall continue to be conventionally assessed and taxed) payment in lieu of taxes for the new improvements on the Property, based on an approximate estimated tax otherwise due on the improvements on the completed Project of approximately **\$88,570 total for the 20 units as rentals**, as follows:

- (a) In the first full year following substantial completion, no payment on the new improvements;
- (b) In the second full year following completion, an amount equal to 20% of taxes otherwise due on the new improvements, estimated to be **\$17,714**;
- (c) In the third full year following completion, an amount equal to 40% of taxes otherwise due on the new improvements, estimated to be **\$35,428**;
- (d) In the fourth full year following completion, an amount equal to 60% of taxes otherwise due on the new improvements, estimated to be **\$53,142**;
- (e) In the fifth full year following completion, an amount equal to 80% of taxes otherwise due on the new improvements, estimated to be **\$70,856**; and

WHEREAS, upon the expiration of the tax exemption, it is estimated that the Project Improvements in total will generate a tax payment of approximately **\$98,352 total for the 20 units as rentals**, including taxes on land, based upon the current tax rate; and

NOW THEREFORE BE IT ORDAINED by the Mayor and Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey as follows:

1. The above recitals are incorporated as if fully set forth at length herein.
2. The Application for a five (5) year tax exemption for the full and true value of the Project Improvements is hereby approved.
3. The Mayor or Municipal Administrator is hereby authorized to execute a five-year tax exemption agreement ("Tax Agreement") for the Project which shall contain, at a minimum, the following terms and conditions:
 - (a) The payment in lieu of taxes on the Project Improvements shall in total be:

- (i) Year 1: the tax year following substantial completion, no payment in lieu of taxes otherwise due.
 - (ii) Year 2: the second tax year, 20% taxes otherwise due, estimated to be, on the basis of the condominium units being rented: **\$17,714;**
 - (iii) Year 3: the third tax year, 40% of taxes otherwise due, estimated to be, on the basis of the condominium units being rented, **\$35,428;**
 - (iv) Year 4: the fourth, tax year, 60% of taxes otherwise due, estimated to be, on the basis of the condominium units being rented, **\$53,142;**
 - (v) Year 5: the fifth tax year, 80% of taxes otherwise due, estimated to be, on the basis of the condominium units being rented, **\$70,856;**
4. The taxes otherwise due for the Project Improvements shall be determined as of the date of completion by the municipal Tax Assessor.
5. The Tax Agreement for the Project shall take effect on January 1 of the tax year immediately following the completion of the Project and shall have a duration of five years unless terminated prior thereto.
6. With respect to the transfer of the property, where it is determined that the new owner of the property will continue to use the property pursuant to the conditions which qualified the property, no tax shall be due, the exemption shall continue and the agreement shall remain in effect.
7. At the termination of the Tax Agreement, the new improvements shall be subject to all applicable real property taxes as provided by State law and regulation and local ordinance; but nothing herein shall prohibit the Project, at the termination of an agreement, from qualifying for, and receiving the full benefits of, any other tax preferences provided by law.
8. The Municipal Clerk shall forward a copy of the Tax Agreements to the Director of the Division of Local Government Services in the Department of Community Affairs within thirty (30) days of the date of execution of the Tax Agreement.
9. The Tax Agreement shall be subject to the provisions of Section 364-19 of the Ordinance as codified, as may be applicable.
10. In the event the Project is converted to a condominium, then the Tax Agreement shall terminate and the Project will be assessed conventionally as of the date of the recording of the master deed.

11. All ordinances and parts of ordinances inconsistent herewith, excepting the Ordinance, are hereby repealed.

12. This ordinance shall take effect at the time and in the manner provided by law.

Introduced: 3/23/2017

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **March 23, 2017** and ordered published, and will be further considered before final passage at a public hearing on **April 20, 2017** at **6:30 p.m.** at the Commission Chambers, Municipal Building, West New York, NJ. A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.

Carmela Riccio, RMC
Town Clerk