

**TOWN OF WEST NEW YORK  
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**ORDINANCE # 7/19**

**AN ORDINANCE APPROVING A FIVE (5) YEAR TAX EXEMPTION FOR  
MULTIPLE DWELLING RENTAL PROJECT CONSTRUCTED BY BERGENLINE  
CAP 4901, LLC AT 4901 BERGENLINE AVENUE, 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**, Bergenline Cap 4901, LLC (the "Entity") owns certain property known as Block 107, Lot 35, on the Town's Official Tax map, (the "Property"), commonly known as 4901 Bergenline Avenue, 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 97 residential rental units and four (4) commercial 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 2017 generated approximately **\$82,434** in taxes, approximately **\$28,851** 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 **\$740,000 total for the 97 residential units as rentals and four (4) commercial units as rental**, as follows:

(a) In the first full year following substantial completion, no payment on the new improvements and a payment of **\$28,000** for land taxes;

(b) In the second full year following completion, an amount equal to 20% of taxes otherwise due on the new improvements, estimated to be **\$171,766.14**;

(c) In the third full year following completion, an amount equal to 40% of taxes otherwise due on the new improvements, estimated to be **\$314,508.17**;

(d) In the fourth full year following completion, an amount equal to 60% of taxes otherwise due on the new improvements, estimated to be **\$457,385.68**;

(e) In the fifth full year following completion, an amount equal to 80% of taxes otherwise due on the new improvements, estimated to be **\$600,263.20**; 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 **\$740,000 total for the 97 residential units as rentals and four (4) commercial units as rental**, 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 except **\$28,000** for land taxes.

(ii) Year 2: the second tax year, 20% taxes otherwise due, estimated to be, on the basis of the units being rented: **\$171,766.14**;

(iii) Year 3: the third tax year, 40% of taxes otherwise due, estimated to be, on the basis of the units being rented, **\$314,508.17**;

(iv) Year 4: the fourth, tax year, 60% of taxes otherwise due, estimated to be, on the basis of the units being rented, **\$457,385.68**;

(v) Year 5: the fifth tax year, 80% of taxes otherwise due, estimated to be, on the basis of the units being rented, **\$600,263.20**;

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: 7/10/2019**

### **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 **July 10, 2019** and ordered published, and will be further considered before final passage at a public hearing on **August 7, 2019 at 12:30 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