

ORDINANCE NO. 1246

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND CHAPTER 888 OF THE CODE OF ORDINANCES OF THE CITY OF LANSING FOR THE PURPOSES OF RENAMING THE PROJECT SPONSOR AND PROVIDING FOR AN EXTENSION OF A SERVICE CHARGE IN LIEU OF TAXES FOR EXISTING LOW INCOME FAMILY UNITS FOR A PROJECT KNOWN AS 516 W. SAGINAW APARTMENTS/FERRIS MANOR, PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, AS AMENDED.

THE CITY OF LANSING ORDAINS:

SECTION 1. THAT CHAPTER 888 OF THE CODE OF ORDINANCES OF THE CITY OF LANSING, MICHIGAN BE AMENDED TO READ AS FOLLOWS:

888.14. - 516 W. Saginaw Street Apartments.

(a) Purpose. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions, including the City of Lansing, to provide housing for citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended). The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that housing for persons of low income is a public necessity, and as the City will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuation of the provisions of this ordinance section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of the housing development project which is to be constructed or rehabilitated and financed in reliance on such tax exemption and service charge.

The City acknowledges that the sponsor, as defined in this section of the ordinance, is a Michigan non-profit corporation and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) program and a mortgage loan, to rehabilitate, own, and operate a housing development, identified as "516 W. Saginaw Rehabilitation Project", on certain property located in the City to serve persons of low income, and that the sponsor has offered to pay the City on account of this housing development an annual service charge for public service in lieu of taxes.

(b) Definitions.

(1) "Act" means the State Housing Development Authority Act, being Michigan Public Act 346 of 1966, as amended; MCL 125.1401 et seq.

(2) "Annual shelter rent" means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

(3) "Authority" means the Michigan State Housing Development Authority; MCL 125.1401 et seq.

(4) "City" means the City of Lansing, a Michigan Municipal Corporation.

(5) "Commencement of construction" means the commencement of the rehabilitation of the existing facilities known as 516 W. Saginaw Apartments.

(6) "Housing development" means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low income.

(7) "Low income persons or families" means low income persons or families as defined in Section 15(a)(7) of the Act.

(8) "Mortgage loan" means a federally-aided or authority-aided mortgage or advance from the authority, as defined in the Act, to the sponsor for the construction and/or permanent financing of the housing development.

(9) "516 W. Saginaw Rehabilitation Project" and "the project" and "the housing development project" mean the rehabilitation of the facilities at 516 W. Saginaw Street, Lansing, consisting of approximately 23 residential apartment units. This includes the property described in the following tax parcel identification number: ~~3301-09-363-051-6~~ 33-01-01-09-363-051. IN THE EVENT OF A LOT COMBINATION WITH LOT 33-01-01-09-363-041 THE RESULTANT LOT WILL BE SUBJECT TO THIS ORDINANCE.

(10) "Sponsor" means person(s) or entities which have applied to the authority for a mortgage loan or for an allocation under the low income housing tax credit program to finance the project. The sponsor under this section of the ordinance is ~~the Michigan Non-Profit Real Estate Development Corporation, doing business as Ferris Development, a Michigan nonprofit corporation~~ WALNUT FERRIS LDHA LP, OR ITS SUCCESSORS OR ASSIGNS WHICH CONTINUE TO MEET ALL REQUIREMENTS HEREIN.

(11) "Utilities" mean fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

All terms referencing the Act but not defined in this section shall have the meanings given them in the Act.

(c) Class of Housing Development. It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing developments which are financed or assisted pursuant to the Act. It is further determined that 516 W. Saginaw Apartments Rehabilitation Project is of this class.

(d) Establishment of Annual Service Charge in Lieu of Property Taxes.

(1) Subject to the conditions precedent in this section, the housing development project known as the 516 W. Saginaw Apartments Rehabilitation Project and the property on which it is situated shall be exempt from all property taxes for not more than A PERIOD ESTABLISHED IN SECTION (H) HEREIN ~~30 years from and after the commencement of construction~~. The City acknowledges that the sponsor and the authority have established the economic feasibility of the housing development project in reliance upon the enactment and continuing effect of this section and the qualification of the housing development project for the exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the sponsor's offer, subject to receipt of a mortgage loan and an allocation under the LIHTC program, to rehabilitate, own and operate the 516 W. Saginaw Street Apartments Rehabilitation Project, the City agrees to accept payment of an annual service charge for public services in lieu of all property taxes, provided the sponsor furnishes the City with proof of its annual certification pursuant to the requirements of the Act and or at the request of the City, proof that the sponsor has received and is maintaining its allocation of low income housing credits by the authority and that the housing development project units have not increased, decreased or been altered in any form, unless the City has otherwise amended the provisions of this section.

(2) In addition to the annual certification requirement in paragraph (1) of this subsection, the tax exemption shall commence when the sponsor complies with Section 15a of the Act, which provides: the owner of a housing project eligible for the exemption shall file with the local assessing officer a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority for certification by the authority that the project is eligible for the exemption. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

(3) The annual service charge shall be equal to four percent (4%) of the difference between the annual shelter rents actually collected and utilities.

(e) Limitation on the Payment of the Annual Service Charge. Notwithstanding subsection (d), the service charge to be paid each year in lieu of taxes for the part of the housing development project which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes that would otherwise be due and payable on that portion of the housing development project if the project were not tax exempt.

(f) Payment of Service Charge. The service charge in lieu of taxes as determined under this section shall be payable in the same manner as general property taxes are payable to the City except that the annual payment shall be made on or before July 1 of the year following the year upon which such charge is calculated. Notwithstanding the foregoing, the service charges payable on or before July 1, 2006 through July 1, 2010, shall be deferred and will be due on or before July 1, 2015.

(g) Contractual Effect of this Section. Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the sponsor, with the authority as third-party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section.

(h) Duration; Commencement of Construction.

(1) The property tax exempt status of the housing development project approved by this section shall remain in effect and shall not terminate so long as the mortgage loan for the housing development project remains outstanding and unpaid, or for such period as the authority or other governmental entity has any interest in the property or the project is subject to income and rent restrictions under § 42 of the Internal Revenue Code, as amended; provided that the rehabilitation of the housing development project commences within one year from the effective date of this section, that the project is in part financed by low income housing tax credits from the authority and that the number of units and the purposes for the housing development project remain unchanged, subject to amendment in accordance with the law. If the rehabilitation of the housing development project does not commence within one year from the effective date of this section, this Section 888.14 of the ordinance shall automatically expire, terminate and be of no effect. If the sponsor fails to obtain within one year of the effective date of this section low income housing tax credits from the authority or changes the scope or purpose of the housing development project without the consent of the people of the City, by and through its representatives, and in accordance with the requirements of the law, this section shall automatically expire, terminate and be of no effect.

(2) Except as provided in paragraph (1) of this subsection, the exemption from property taxes shall terminate not later than 30 years from and after the date of the commencement of construction; OR, IN THE EVENT THE FINANCING IS RESTRUCTURED BETWEEN MARCH 25, 2019 AND MARCH 25, 2021, THE EXEMPTION FROM PROPERTY TAXES SHALL TERMINATE NOT LATER THAN FIFTEEN (15) YEARS FROM AND AFTER THE DATE OF COMMENCEMENT OF CONSTRUCTION FINANCED BY THE RESTRUCTURING, WHICHEVER IS LATER.

SECTION 2. ALL ORDINANCES, RESOLUTIONS OR RULES, PARTS OF ORDINANCES, RESOLUTIONS OR RULES INCONSISTENT WITH THE PROVISIONS HEREOF ARE HEREBY REPEALED AS THEY PERTAIN TO THE 516 W. SAGINAW APARTMENTS/FERRIS MANOR.

SECTION 3. SHOULD ANY SECTION, CLAUSE OR PHRASE OF THIS ORDINANCE BE DECLARED TO BE INVALID, THE SAME SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE, OR ANY PART THEREOF OTHER THAN THE PART SO DECLARED TO BE VALID.

SECTION 4. THIS ORDINANCE SHALL TAKE EFFECT ON THE 30TH DAY AFTER ENACTMENT UNLESS GIVEN IMMEDIATE EFFECT BY THE CITY COUNCIL.