

ORDINANCE #1289

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND THE CODE OF ORDINANCES OF THE CITY OF LANSING BY ADDING A NEW SECTION 884.____ FOR THE PURPOSES OF PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES FOR SEVENTY-FIVE (75) LOW INCOME ELDERLY DWELLING UNITS IN A PROJECT KNOWN AS APARTMENTS WEST, PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, (BEING PUBLIC ACT 346 OF 1966, AS AMENDED [MCL 125.1401, ET SEQ.]) (THE "ACT").

THE CITY OF LANSING ORDAINS:

SECTION 1. That Chapter 884 of the Code of Ordinances of the City of Lansing, Michigan be amended to add a new Section _____ to read as follows:

884.____ APARTMENTS WEST

(A) *PURPOSE*. IT IS ACKNOWLEDGED THAT IT IS A PROPER PUBLIC PURPOSE OF THE STATE AND ITS POLITICAL SUBDIVISIONS TO PROVIDE HOUSING FOR ITS RESIDENTS OF LOW AND MODERATE 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, BEING PUBLIC ACT 346 OF 1966, AS AMENDED [MCL 125.1401, ET SEQ.]. THE CITY IS AUTHORIZED BY SUCH 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 SUCH ACT AT ANY AMOUNT IT CHOOSES, NOT TO EXCEED THE TAXES THAT WOULD BE PAID BUT FOR THIS ACT. IT IS FURTHER ACKNOWLEDGED THAT SUCH HOUSING FOR ELDERLY PERSONS OF LOW AND MODERATE INCOME IS A PUBLIC NECESSITY, AND AS THE CITY WILL BE BENEFITED 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.

(B) *DEFINITIONS*.

- (1) "ACT" MEANS THE STATE HOUSING DEVELOPMENT AUTHORITY ACT, BEING PUBLIC ACT 346 OF 1966, AS AMENDED.
- (2) "ANNUAL SHELTER RENTS" MEANS THE TOTAL COLLECTIONS DURING AN AGREED ANNUAL PERIOD FROM ALL PERSONS OF LOW OR MODERATE INCOME, OCCUPYING THE HOUSING DEVELOPMENT REPRESENTING RENTS FOR OCCUPANCY, WHICH RENTAL AMOUNTS SHALL BE EXCLUSIVE OF CHARGES FOR GAS, ELECTRICITY, HEAT OR OTHER UTILITIES FURNISHED TO THE OCCUPANTS.
- (3) "AUTHORITY" MEANS THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.
- (4) "HOUSING DEVELOPMENT" OR "DEVELOPMENT" MEANS A DEVELOPMENT WHICH CONTAINS A SIGNIFICANT ELEMENT OF HOUSING FOR PERSONS OF LOW AND MODERATE INCOME AND SUCH ELEMENTS

OF OTHER HOUSING, COMMERCIAL, RECREATIONAL, INDUSTRIAL, COMMUNAL AND EDUCATIONAL FACILITIES AS THE AUTHORITY MAY DETERMINE WILL IMPROVE THE QUALITY OF THE DEVELOPMENT AS IT RELATES TO HOUSING FOR PERSONS OF LOW AND MODERATE INCOME. FOR THE PURPOSE OF THIS SECTION, THE NAME OF THIS DEVELOPMENT IS APARTMENTS WEST, AND CONSISTS OF SEVENTY-FIVE (75) UNITS OF RENTAL HOUSING LOCATED WITHIN LANSING AT:

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- (5) "*HUD*" MEANS THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OF THE UNITED STATES GOVERNMENT.
 - (6) "*LOW INCOME HOUSING TAX CREDIT PROGRAM*" MEANS THE PROGRAM ESTABLISHED BY SECTION 42 OF THE UNITED STATES INTERNAL REVENUE CODE.
 - (7) "*LOW OR MODERATE INCOME*" MEANS LOW OR MODERATE INCOME ELIGIBILITY UNDER THE AUTHORITY ACT OR RULES.
 - (8) "*MORTGAGE LOAN*" MEANS A LOAN THAT IS FEDERALLY-AIDED (AS DEFINED IN SECTION 11 OF THE ACT) OR A LOAN OR GRANT MADE OR TO BE MADE BY THE AUTHORITY TO THE SPONSOR FOR THE CONSTRUCTION, REHABILITATION, ACQUISITION AND/OR PERMANENT FINANCING OF A HOUSING PROJECT AND SECURED BY A MORTGAGE ON THE HOUSING PROJECT.
 - (9) "*SPONSOR*" MEANS A PERSON OR OTHER ENTITY WITH A HOUSING DEVELOPMENT WHICH IS FINANCED OR ASSISTED PURSUANT TO THE ACT. FOR PURPOSES OF THIS SECTION, THE SPONSOR OF APARTMENTS WEST IS GCDS WEST SCHOOL LIMITED DIVIDEND HOUSING ASSOCIATION, LLC, OR ITS SUCCESSORS OR ASSIGNS.
 - (10) "*UTILITIES*" MEANS FUEL, WATER, SANITARY SEWER AND/OR ELECTRICAL SERVICE, WHICH IS PAID FOR BY THE HOUSING DEVELOPMENT.
- (C) *ESTABLISHMENT OF ANNUAL SERVICE CHARGE.*
- (1) THE CITY ACKNOWLEDGES THAT THE SPONSOR AND THE AUTHORITY HAVE ESTABLISHED THE ECONOMIC FEASIBILITY OF APARTMENTS WEST IN RELIANCE UPON THE ENACTMENT AND CONTINUING EFFECT OF THIS SECTION AND UPON THE QUALIFICATION OF THE SEVENTY-FIVE (75) UNITS OF HOUSING IN THE HOUSING DEVELOPMENT FOR EXEMPTION FROM ALL PROPERTY TAXES AS ESTABLISHED IN THIS SECTION.
 - (2) SUBJECT TO THE CONDITIONS AND REQUIREMENTS OF THIS SECTION AND THE ACT, THE SEVENTY-FIVE (75) UNITS IN THE HOUSING DEVELOPMENT FOR PERSONS OF LOW AND MODERATE INCOME IDENTIFIED AS APARTMENTS WEST AND THE PROPERTY ON WHICH THEY ARE CONSTRUCTED SHALL BE EXEMPT FROM ALL PROPERTY TAXES FOR NOT MORE THAN FORTY (40) YEARS, COMMENCING WITH THE ACQUISITION OF THE PROPERTY BY SPONSOR.
 - (3) IN LIEU OF ALL SAID PROPERTY TAXES ON THE SEVENTY-FIVE (75) UNITS IN THE HOUSING DEVELOPMENT, THE SPONSOR SHALL PAY, AND THE

CITY WILL ACCEPT, AN ANNUAL SERVICE CHARGE FOR PUBLIC SERVICES IN THE SUM EQUAL TO FOUR PERCENT (4%) OF THE ANNUAL SHELTER RENTS.

- (4) THE EXEMPTION PROVIDED UNDER THIS SECTION SHALL COMMENCE WHEN THE SPONSOR COMPLIES WITH SECTION 15A(1) OF 1966 PA 346, AS AMENDED, CODIFIED AS MCL 125.1415a(1), WHICH PROVIDES: THE OWNER OF A HOUSING PROJECT ELIGIBLE FOR THE EXEMPTION SHALL FILE WITH THE LOCAL ASSESSING OFFICER (THE CITY ASSESSOR) 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 OR CAUSE TO BE FILED 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.
- (5) IN ADDITION TO THE CERTIFICATION REQUIRED PURSUANT TO SUBSECTION (C)(4), THE SPONSOR SHALL PROVIDE FOR THE HOUSING DEVELOPMENT ANNUALLY IN WRITING TO THE CITY ASSESSOR FOR THE PRECEDING YEAR IN WHICH THE PROPERTY TAX EXEMPTION WAS IN EFFECT:
 - A. THE ANNUAL AUDITED ACCOUNTING REPORT FOR THE PAYMENT IN LIEU OF TAXES; AND
 - B. A CERTIFIED STATEMENT IDENTIFYING ALL THE UNITS RENTED TO PERSONS OF LOW OR MODERATE INCOME; AND
 - C. IF REQUESTED BY THE CITY, PROOF THAT THE HOUSING DEVELOPMENT UNITS HAVE NOT INCREASED, DECREASED, OR BEEN ALTERED IN ANY FORM, UNLESS THE CITY HAS OTHERWISE AMENDED THE PROVISIONS OF THIS SECTION; AND
- (D) *LIMITATION ON THE PAYMENT OF THE ANNUAL SERVICE CHARGE.* NOTWITHSTANDING SUBSECTION (C), THE SERVICE CHARGE TO BE PAID EACH YEAR IN LIEU OF TAXES FOR THE PART OF THE HOUSING DEVELOPMENT PROJECT THAT IS TAX EXEMPT AND OCCUPIED BY OTHER THAN LOW OR MODERATE INCOME PERSONS 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.
- (E) *PAYMENT OF ANNUAL SERVICE CHARGE.* THE SERVICE CHARGE IN LIEU OF TAXES, AS ESTABLISHED 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. COLLECTION PROCEDURES SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE GENERAL PROPERTY TAX ACT (1893 PA 206 AS AMENDED; MCL 211.1 ET.SEQ.)

- (F) *CONTRACTUAL EFFECT.* 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 PAYMENT IN LIEU OF TAXES AS PREVIOUSLY DESCRIBED, IS EFFECTUATED BY THE ENACTMENT OF THIS SECTION.
- (G) *DURATION.* THIS SECTION SHALL REMAIN IN EFFECT AND SHALL NOT TERMINATE FOR FORTY (40) YEARS, COMMENCING WITH THE ACQUISITION OF THE PROPERTY BY THE SPONSOR, PROVIDED THAT THE SPONSOR COMPLIES WITH THE REQUIREMENTS OF THE ACT AND THIS SECTION, AND FURTHER PROVIDED THAT THE HOUSING DEVELOPMENT CONTINUES TO BE RENTED TO LOW OR MODERATE INCOME PERSONS AT RENTS DETERMINED UNDER THE LOW INCOME HOUSING TAX CREDIT PROGRAM, AS THE SAME MAYBE FURTHER AMENDED OR SUPERSEDED, OR THERE IS AN AUTHORITY-AIDED OR FEDERALLY-AIDED MORTGAGE ON THE HOUSING DEVELOPMENT AS PROVIDED IN THE ACT, OR THE AUTHORITY OR HUD HAS AN INTEREST IN THE PROPERTY; BUT IN NO EVENT BEYOND DECEMBER 31, 2062. IF (A) THE REHABILITATION OF THE HOUSING DEVELOPMENT PROJECT DOES NOT COMMENCE OR THE SPONSORS FAIL TO OBTAIN A MORTGAGE LOAN WITHIN TWO (2) YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, OR (B) IF TRANSFER OF TITLE IS NOT EFFECTUATED TO THE GCDS WEST SCHOOL LIMITED DIVIDEND HOUSING ASSOCIATION, LLC WITHIN TWO (2) YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, OR (C) IF THE SPONSORS CHANGE THE SCOPE OR PURPOSE OF THE SEVENTY-FIVE (75) UNITS OF HOUSING WITHIN THE HOUSING DEVELOPMENT PROJECT WITHOUT THE CONSENT OF THE CITY, BY AND THROUGH ITS REPRESENTATIVES, AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE LANSING CITY CHARTER, AND THE SPONSOR OR OTHER RESPONSIBLE PARTY DOES NOT CURE THE VIOLATION WITHIN NINETY (90) DAYS AFTER WRITTEN NOTICE IS GIVEN TO THE SPONSOR, THEN THIS ORDINANCE SHALL AUTOMATICALLY EXPIRE, TERMINATE AND BE OF NO FURTHER EFFECT.

SECTION 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed at the time this exemption commences.

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.