

ORDINANCE No. 184714

* Approve an eighteen year tax exemption extension requested by the Hazelwood Group Limited Liability Company for the 96 affordable units and the pro-rated portion of parking in the multiple-unit housing development on 11933 NE Davis St known as the Hazelwood Retirement Community. (Ordinance; amend Ordinance Nos. 181961 and 182911)

The City of Portland ordains:

Section 1. The Council finds that:

1. City Council approved a 10-year tax exemption under the City's New Transit Supportive Residential and Mixed Use Development (TOD) tax exemption program for the Hazelwood Retirement Community on November 12, 1997.
2. The TOD tax exemption program provides a 10-year tax exemption on the improvement value of new multifamily and mixed-use projects located within one-quarter mile of light rail stations or other public transit service facilities. The program's regulations are found in City Code Chapter 3.103.
3. The City Council adopted the TOD program in 1996 to provide support for the City's investment in the MAX light rail system and other investments in public transit outside the Central City by providing an incentive for high-density housing and mixed-use development near transit facilities. The program is authorized by the Oregon Revised Statutes (ORS) 307.600 – 307.637.
4. Both the State Statutes that enable this program and City Code Chapter 3.103 were amended after 1996 to also allow a tax exemption to be granted to existing projects that are subject, or will be subject, to a public assistance contract to provide low income housing through June 30 of the year that the contract expires. The term "low income" is not defined in either the State statutes that enable the TOD program or in City Code Chapter 3.103. Household income ranges labeled "low income" vary.
5. The property that is the subject of this request is located at 11933 NE Davis St. on a site that is part of a 17-acre mixed-use shopping center. The project is the upper three stories of a 4-story structure over small retail shops between a Safeway and a Target department store. It has 120 units of congregate housing for people 62 or older. The unit mix includes 28 studios, 68 one-bedrooms and 24 two bedroom apartments. The property tax account number for this project is R170779.
6. The subject property is located within three blocks of the 122nd Avenue MAX light rail station, an eligible TOD program area as defined by City Code Chapter 3.103 as shown on Map 1 of Map 3.103-7, *Light Rail Station Areas East of the Gateway Plan District*.

7. The project will continue to be subject to two affordability agreements that restrict rents after June 30, 2011. They are the Portland Housing Bureau (PHB) regulatory agreement that expires in 2028 and a State of Oregon regulatory agreement that expires in 2029. The PHB agreement applies to 80 percent of the units (96 units) in the project and the State of Oregon's agreement to 20 percent of these units in the project. The 96 affordable units are restricted to households with income below 80 percent of the median family income. The remaining 20 percent of the units are unrestricted and can be rented for market rents.
8. ORS 307.612 (2) provides that if multiple-unit housing is or becomes subject to a low income housing assistance contract with an agency or subdivision of this state or the United States, the city or county may extend the exemption provided by ORS 307.600 to 307.637 through June 30 of the tax year during which the termination date of the contract falls.
9. ORS 307.618(2) provides that the city or county may approve an application filed under ORS 307.615 if the city or county finds that; as in the case of housing that is or becomes subject to a low income housing assistance contract with an agency or subdivision of this state or the United States, it is important to the community to preserve or establish the housing as low income housing and it is probable that the housing would not be produced, be established or remain as low income housing without the exemption being granted.
10. While the term "low income" is not defined in either the State statutes that enable the TOD program, or in City Code Chapter 3.103, "low income" is understood to be terms that restrict the rent to a rate below market and or terms that restrict the income of the household. In this project the regulatory agreement defines low income as households below 80 percent of the median family income.
11. Section 3.103.055 of the City Code provides that a calculation of the present internal rate of return (IRR) shall be used to determine the applicant's economic need for the exemption to retain the affordability. To qualify, the IRR may not exceed 10% based on evaluation of the operating proforma and annual reports. Portland Housing Bureau has the responsibility for reviewing the financial need for the exemption and the feasibility of the project.
12. On May 30, 2008, Portland Development Commission (PDC) staff forwarded a recommendation of approval of the tax exemption request to the Planning Commission after consulting with PDC's Loan Committee. PDC staff found that with the full exemption, the internal rate of return (IRR) of the project would be -1.55 percent. If the exemption is granted on 80 percent of the project the IRR would be -8.65 percent. Staff asserted that the full tax exemption was necessary for the financial feasibility of the project.
13. The Planning Commission was not required to find that TOD tax exemption applications are consistent with City plans and policies but only that the projects for which the exemption is requested, meet at least three of the fifteen public benefit requirements of Chapter 3.103.
14. The Planning Commission held a hearing on the TOD tax exemption extension request on June 3, 2008. They voted unanimously to recommend approval of the request to City Council for 80 percent of the project that is subject to PDC regulatory agreement to keep the rents affordable to,

and the units reserved for, households at or below 75 percent MFI. The Planning Commission found that the public benefit provided by the project is the preservation of the low income housing units for elderly households near a MAX light rail station. The Planning Commission is not required to find that TOD tax exemption applications are consistent with City plans and policies because the TOD program regulations have density and locational requirements that ensure that eligible residential and mixed-use projects will be consistent with the City's Housing Policy.

15. The City Council passed ordinance #181961 on June 25, 2008 approving an extension of the tax exemption for a one-year period until June 30, 2009, for all of the units at Hazelwood Retirement Community. The reason for the extension was to preserve the status quo while the City reviewed its housing policy and tools.
16. The City Council found the one year extension was insufficient to allow staff to review housing policy and tools, including a more detailed policy regarding extensions of tax exemptions for affordable housing.
17. June 17th, 2009 City Council added an additional two year tax exemption ending June 30th, 2011 exemption for 100% of the units to allow the Council to examine and develop a more detailed policy regarding extensions of tax exemptions for affordable housing.
18. Now the project owner, The Hazelwood Group LLC, requests an extension of the tax exemption on the entire improvement value of all 120 units of the project. The request is to preserve the financial viability of the project for the duration of the required period of affordability for 80 percent of the units that ends in 2029.
19. In this case affordable units are defined as units affordable to households below 80% MFI.
20. The PHB is responsible for analyzing the economic necessity of a tax exemption. An analysis found Hazelwood Retirement Community contains public benefits outlined in the original tax exemption application and has demonstrated the economic need necessary for approval of an extension of the original ten year property tax exemption on the improvement value pursuant to ORS 307.618(2). The attached PHB Housing Investment Committee Report and financial analysis of this project, Exhibit A, shows the internal rate of return over the next 18-years will remain below the threshold of 10 percent.
21. On May 26th 2009, the Portland Housing Bureau Housing Investment Committee approved a recommendation to the City Council approval of tax exemption extension for only the 96 affordable units below 80% MFI for an 18-year tax exemption.
22. The attached reports from the Portland Housing Bureau and the Planning and Sustainability Bureau are attached as legislative intent and findings. The exhibits are listed here;
 - a. The commentary in *Exhibit A: Portland Housing Bureau's 2011 Report and Recommendation and Financial Analysis on the Requested Extension of the Tax Exemption Granted to the Hazelwood Retirement Community*, relating to the

background on tax exemptions for affordable housing is adopted as legislative intent and findings.

- b. The commentary in *Exhibit A-1: Extended Use Agreement*, relating covenants and restrictions is adopted as legislative intent and findings.
- c. The commentary in *Exhibit A-2: Planning Commission's 2008 Report and Recommendation on the Requested Extension of the Tax Exemption Granted to the Hazelwood Retirement Community*, relating to the background on tax exemptions for affordable housing is adopted as legislative intent and findings.

NOW, THEREFORE, the Council directs:

- a. The request for an amendment to the extension of 10-year tax exemption provided by Chapter 3.103 of the Municipal Code of the City of Portland, Oregon, and ORS 307.600-637 is hereby approved for an 18-year period which will expire June 30, 2029 for the following property:

The Hazelwood Retirement Community at 11933 NE Davis Street in Portland Oregon, Property tax account number R170779.

- b. The application described in paragraph "a" above is approved subject to the following condition:

The affordability requirements in the conditions of approval in Resolution 35735 are extended until 2029 and the units that are the subject of these affordability requirements be reserved for households with incomes that match the prescribed affordability levels:

- At least 30 percent of the total number of units (36 units) shall be affordable to and reserved for households earning at or below 50 percent MFI.
- At least 3.3 percent of the total number of units (4 units) shall be affordable to and reserved for households at or below 60 percent MFI.
- At least 46.67 percent of the total number of units (56 units which includes a manager's unit) shall be affordable to and reserved for households at or below 75 percent MFI.
- If the remaining 20 percent of the project at market rate (24 units) becomes subject to a long term affordability agreement below 80% MFI, those units will be eligible to apply for a tax exemption for the remaining years of the associated long term affordability regulatory agreement.

- c. The Portland Housing Bureau shall provide copies of this Amended Ordinance to the Multnomah County Tax Assessor as prescribed by Section 3.103.050 (G) of the Code of the City of Portland.

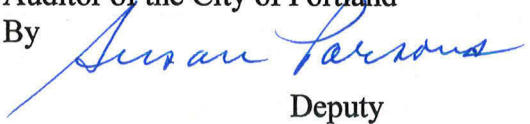
Section 2. The Council declares that an emergency exists in order that there is no delay in preserving the affordable housing in this project; therefore, this ordinance shall be in full force and effect from and after its passage by Council.

Passed by the Council: JUN 29 2011

Commissioner Nick Fish
Prepared by: Kim McCarty
Date Prepared June 15, 2011

LaVonne Griffin-Valade
Auditor of the City of Portland

By


Deputy

Agenda No.
ORDINANCE NO. 184714
 Title

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INTRODUCED BY Commissioner/Auditor: Commissioner Nick Fish	CLERK USE: DATE FILED <u>JUN 24 2011</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish <i>N. Fish</i> Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Portland Housing Bureau Bureau Head: Margaret Van Vleet Prepared by: Kim McCarty Date Prepared: 06/15/2011	ACTION TAKEN:
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date June 29, 2011	
City Attorney Approval <i>[Signature]</i>	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: Total amount of time needed: (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 30 minutes (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	—	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	