

ORDINANCE NO.: 607

THE HOM FLATS TAX EXEMPTION ORDINANCE

AN ORDINANCE to provide for a service charge in lieu of taxes for the multiple family dwelling housing project known as The HOM Flats (the "Housing Project") for Low Income Persons and Families to be financed with a Michigan State Housing Development Authority-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq.*) (the "Act").

THE CHARTER TOWNSHIP OF HOLLAND, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

SECTION 1. Title

This Ordinance shall be known and cited as the "The HOM Flats Tax Exemption Ordinance of Holland Charter Township."

SECTION 2. Definitions

- A. Act means the State Housing Development Authority Act, being Public Act 346 of 1966, MCL 125.1401, *et seq.*, of the State of Michigan, as amended.
- B. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.
- C. Authority means the Michigan State Housing Development Authority.
- D. 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, communal and educational facilities as the Authority has determined improves the quality of the development as it relates to housing for persons of low income.
- E. Housing Project means The Hom Flats, a 114-unit multiple family Housing Development located at 12191 Felch Street, Holland, Michigan 49424 and is described more specifically in Exhibit A.
- F. Low Income Persons and Families means persons and families eligible to move into a housing project.
- G. Mortgage Loan means 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 the Housing Project, and secured by a mortgage on the Housing Project.
- H. Sponsor means 12191 Felch Street Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan.

- I. Township means Holland Charter Township, Ottawa County, Michigan.
- J. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the Housing Project.

SECTION 3. Purpose

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its Low Income Persons and Families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The Township 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 such housing for Low Income Persons and Families is a public necessity, and as the Township will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the Housing Project.

The Township acknowledges that the Sponsor has offered, subject to receipt of a Mortgage Loan from the Authority, to rehabilitate, own, and operate the Housing Project identified as The HOM Flats on certain property located at 12191 Felch Street in the Township to serve Low Income Persons and Families, and that the Sponsor has offered to pay the Township, on account of this Housing Project, an annual service charge for public services in lieu of all *ad valorem* property taxes.

SECTION 4. The Hom Flats

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan by the Authority. Based on the representations and warranties of the Sponsor, it is determined that The HOM Flats is a Housing Development eligible for tax exemption as provided by Section 15a of the Act.

SECTION 5. Establishment of Annual Service Charge

The Housing Project and the property on which it is located shall be exempt from all *ad valorem* property taxes commencing on December 31, 2020 subject to compliance by the Sponsor with all requirements imposed in Section 15a(1) of the Act.

The Township acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the Housing Project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance.

Therefore, in consideration of the Sponsor's offer to construct, own, and operate the Housing Project as described in the Project Narrative in Exhibit B, the Township agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to a receipt of a Mortgage Loan, annual service charge shall be equal to 50 percent of the *ad valorem* property taxes that would normally be paid during each calendar year by the Sponsor for the Housing Project.

SECTION 6. Contractual Effect of Ordinance

Notwithstanding the provisions of Section 15a(5) of the Act to the contrary, a contract between the Township and the Sponsor with the Authority as a 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 Ordinance.

The Township and the Sponsor are not precluded from having a side agreement which places additional enforceable obligations upon the Sponsor.

SECTION 7. Limitation on the Payment of Annual Service Charge

Notwithstanding Section 5 of this Ordinance, the service charge to be paid each year in lieu of taxes for the part of the Housing Project that is tax exempt but which is occupied by other than Low Income Persons and Families shall be equal to the full amount of taxes which would be paid on that portion of the Housing Project if the Housing Project were not tax exempt.

SECTION 8. Payment of Service Charge

The annual service charge in lieu of property taxes as determined under this Ordinance, shall be payable to the Township in two payments, with the summer portion (first of two tax bills for the year) being billed by July 15th of each year, equal to 50 percent of the amount of ad valorem property taxes that would be billed in the Township's first tax bill of the year if the Housing Project was not exempt, and payable within 30 days of the invoice date; and the winter portion (second of two tax bills for the year) being billed by December 15th of each year, equal to 50 percent of the amount of ad valorem property taxes that would be billed in the Township's second tax bill of the year if the Housing Project was not exempt, and payable within 30 days of the invoice date. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (193 PA 206, as amended; MCL 211.1, et seq.).

SECTION 9. Preference to Township Residents

In considering applications for occupancy in the Housing Project, and for vacancies of said units, the Sponsor shall give preference to qualified applicants who are Township residents. However, implementation and enforcement of the Sponsor's obligation to comply with federal, state, or local fair housing laws, ordinances, and regulations relating to Low Income Persons and Families shall not be deemed a violation of this Section.

SECTION 10. Benefits

The benefits of the property tax exemption granted pursuant to this Ordinance shall be allocated by the Sponsor exclusively to occupants of the Housing Project in the form of reduced Annual Shelter Rent. The Sponsor shall, at the request of the Township, submit to the Township such evidence and documentation as may be reasonably necessary to ensure the Sponsor's compliance with this requirement.

SECTION 11. Duration and Compliance Measures

The Ordinance shall remain in effect and shall not terminate from its effective date so long as the Mortgage Loan remains outstanding. When the Mortgage Loan is paid, this Ordinance will terminate, the annual service charges are eliminated, and the full property taxes are reinstated. While the Ordinance is in effect, the Sponsor shall meet the following compliance measures.

- A. The Housing Project remains subject to income and rent restrictions pursuant to the Act.
- B. The Housing Project is rehabilitated as described in the attached Exhibit B. Rehabilitation activities shall be completed in a manner that is in conformance with all federal, state, and local codes and laws; specifically, without limitation, all applicable building, electrical, mechanical, and plumbing permits must be obtained from the Township's Department of Building Safety.
- C. The Sponsor shall actively participate in and become certified on an annual basis under the Crime Free Multi Housing Program for as long as the program or a replacement program is offered by the Ottawa County Sheriff's Department.

SECTION 12. Audits, Inspection of Records

Subject to any limitations imposed by law, the Sponsor shall provide to the Township such accounting records, audits, and financial reports as the Township shall reasonably require to verify compliance with this Ordinance and to verify compliance with the Act, and all other applicable laws.

The Sponsor shall maintain such records of rent or occupancy charges received and the occupancy of units in the Housing Project as will permit the Township to verify which of the units in the Housing Project have been occupied by qualified Low Income Persons or Families. Subject to any limitations imposed by law, the records of the Sponsor pertaining to the Housing Project shall be available for review and audit by the Township at all reasonable times.

SECTION 13. Lien

Annual service charge payments pursuant to this Ordinance shall be a lien on the property of the Housing Project and enforced in the same manner as general property taxes.

SECTION 14. Severability

The various Sections and provisions of this Ordinance shall be deemed to be severable. Should any Section or provisions of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, that shall not affect the validity of this Ordinance as a whole or any other Section or provision of this Ordinance.

SECTION 15. Inconsistent Ordinances

All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION 16. Effective Date

This Ordinance was approved and adopted by the Township Board of Holland Charter Township, Ottawa County, Michigan on July 16, 2020, after introduction and first reading on June 18, 2020, and publication after first reading as required by Act 359 of the Michigan Public Acts of 1947, as amended. This Ordinance shall be effective on July 22, 2020.

Terry Nienhuis, Township Supervisor

Michael Dalman, Township Clerk