

Submitted by: Assemblymember Tesche

Prepared by: Department of Assembly

For reading: January 6, 2004

CLERK'S OFFICE

APPROVED

Date: 1-6-04 ANCHORAGE, ALASKA
AR No. 2004- 7

**A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE AMENDING
ASSEMBLY RESOLUTION NO. 98-363 TO PERMIT TRANSFER OF THE TAX
EXEMPTION GRANTED TO MARC MARLOW FOR A DETERIORATED AREA
AROUND THE MCKAY BUILDING UNDER CERTAIN CIRCUMSTANCES.**

WHEREAS, on September 15, 1998, the Assembly passed AO 98-135(S-1) which amended Anchorage Municipal Code sections 12.35.005, 12.35.010 and 12.35.025, allowing the Municipality to extend property tax exemptions and deferrals to deteriorated property for the purpose of providing incentive and assistance in rehabilitating such property; and

WHEREAS, on September 15, 1998, the Assembly passed AO 98-136(S), which defined property surrounding the McKay Building as deteriorated property; and

WHEREAS, Marc Marlow thereafter submitted an application, pursuant to the Assembly approved procedure, to then-CFO Soren Orley, for a package of property tax exemptions and deferrals for the properties. After finding the application complete, Mr. Orley forwarded the application via AM 1073-98 to the Assembly for action. On November 17, 1998, the Assembly passed AR 98-363, granting five years of property tax exemption followed by five years of property tax deferral; and

WHEREAS, subsequent to approval of AR 98-363, the Alaska Statute 29.45.050(o) was amended to allow the property tax exemption to be exercised any time on or after the start of substantial renovation; and

WHEREAS, the property tax exemption has been approved but Mr. Marlow has represented to the current CFO Jeff Sinz that the exemption will not be exercised until the rehabilitation and renovation is substantially completed in order to take advantage of the exemption as the property reopens for business; and

WHEREAS, Mr. Marlow requests an amendment to AR 98-363 that will allow him to transfer the five year property tax exemption, once the project is substantially rehabilitated and renovated, to another entity or owner; and

WHEREAS, the applicable Alaska Statute and Municipal Code provisions prohibit transfer of the property tax deferral but do not prohibit transfer of the property tax exemption. However, a condition of the Assembly grant under AR 98-363 was Marc Marlow remain as owner and in control of the property; now therefore,

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. That Assembly Resolution 98-363 is amended at Section 1 as follows (*the remainder of the section is not affected and therefore not set out*):

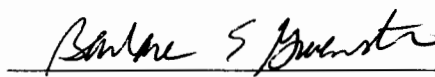
Section 1. That, based on the representations in the Application and the Feasibility Study, the Municipality hereby grants to Marc Marlow or a business entity which he controls and is the majority owner, a 99% five-year exemption [FROM] followed by a five-year deferral, beginning upon the expiration of the exemption, of real property taxes for all property between Cordova and Eagle Streets and 3rd and 4th Avenues. The five year exemption, if still lawful under state statute, may be transferred to another entity or owner only upon substantial completion of the project, Mr. Marlow's affirmative exercise of the real property tax exemption, and the consent of the Municipality of Anchorage, which consent shall not be unreasonably withheld. The grant of this application is subject to the following conditions precedent to the effectiveness of the exemption and deferral:

Section 2. This resolution ordinance shall become effective upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 6th day of January, 2004.


Chair of the Assembly

ATTEST:


Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

AM No. 32-2004

Meeting Date: January 6, 2004

From: Assemblymember Tesche

Subject: Amending Assembly Resolution No. 98-363 to Permit Transfer of the Tax Exemption Granted to Marc Marlow for a Deteriorated Area Around the McKay Building

During 1998, the Assembly took a series of actions that resulted in approval of a property tax exemption and deferral for property immediately surrounding the McKay Building. Assembly approval of the exemption and deferral was accomplished through Assembly Resolution (AR) 98-363, a copy of which is attached.

Mr. Marc Marlow recently requested that the Municipal Chief Fiscal Officer provide a letter to CW Capital, a HUD authorized lender and potential provider of financing for the McKinley Apartments (McKay Building) Project confirming certain elements of the municipal property tax exemption and deferral extended to the project. More specifically, the letter documents the existence of the municipal property tax exemption and deferral, and confirms transferability of the exemption if ownership of the property changes hands during the five-year exemption period.

Mr. Marlow has indicated that transferability of the exemption is an important element of the lender's valuation of the property as security for project financing.

The Municipal Attorney reviewed the relevant documents and determined the legal requirements imposed by the Assembly had been met and the exemption, as approved by AR 98-363 may be transferable. The Attorney concluded the property tax exemption previously granted is in compliance with applicable law, but that it is not transferable as approved. Although state law does not prohibit transfer of property tax exemptions, the exemption approved through AR 98-363 is specific to Mr. Marlow and his businesses. Assembly clarification, by amendment to AR 98-363, is needed to establish transferability.

The attached Assembly Resolution amends Section 1 of AR 98-363 to clarify the exemption may be transferred to another entity or owner upon 3 events: Substantial completion of the project, Mr. Marlow's affirmative exercise of the real property tax exemption, and the consent of the Municipality of Anchorage. None of the other terms of the exemption previously granted by AR 98-363 are changed by this amendment. The tax deferral is not addressed, as it is not transferable under state law.

1 The administration has reviewed the relevant documents and concurs with the amendment to
2 assembly resolution AR 98-363 to permit transfer of the tax exemption granted to Marc Marlow
3 for a deteriorated area around the McKay building under certain circumstances.
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6 Respectfully submitted,

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9 Allan Tesche
10 Assemblymember
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CLERK'S OFFICE
AMENDED AND APPROVED
Date: 11-17-98

Submitted by: Chairman of the Assembly
at the Request of the Mayor
Prepared by: Department of Finance
For Reading: November 17, 1998

ANCHORAGE, ALASKA
AR NO. 98-363

A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE GRANTING MARC MARLOW A FIVE-YEAR REAL PROPERTY TAX EXEMPTION AND A FIVE-YEAR TAX DEFERRAL CONSECUTIVE TO THE EXEMPTION FOR DETERIORATED PROPERTY, SUBJECT TO CONDITIONS PRECEDENT.

WHEREAS, AO 98-135(S-1) allows the Assembly to grant consecutive, partial five-year exemption and ~~partial~~ five-year deferral from real property taxes for areas designated as deteriorated; and

WHEREAS, AO 98-136(S) designated all the property between Cordova and Eagle Streets and 3rd and 4th Avenues as a Deteriorated Area; and

WHEREAS, by an application attached hereto as Exhibit A. incorporated herein by reference (herein "Application"), Marc Marlow has applied for consecutive 99% five-year exemption and ~~99%~~ five-year deferral from real property taxes for all property between Cordova and Eagle Streets and 3rd and 4th Avenues; and

WHEREAS, Marc Marlow owns or has options to buy all property between Cordova and Eagle Streets and 3rd and 4th Avenues; and

WHEREAS, Marc Marlow has stated his intended purpose is to renovate the structure known as the McKay Building into residential units and retail space as described in the "Property and Project Description" of the Brian R. O'Conner, MAI and Scott A. Wilson, *Market & Feasibility Study of the Proposed: McKay Building Renovation Project, East Fourth Avenue and Denali Street, Anchorage, Alaska*, May 22, 1998, Ref. No. 98-075, hereinafter referred to as the "Feasibility Study" and attached as Exhibit A. to the Assembly Memorandum accompanying this ordinance;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES:

or a business entity which he controls and is the majority owner
Section 1. That, based on the representations in the Application and the Feasibility Study, the Municipality hereby grants to Marc Marlow a 99% five-year exemption from followed by a ~~99%~~ five-year deferral, beginning upon expiration of the exemption, of real property taxes for all property between Cordova and Eagle Streets and 3rd and 4th Avenues subject to the following conditions precedent to the effectiveness of the exemption and deferral:

- or a business entity which he controls and is the majority owner
- That title to all property be in the name of Marc Marlow; and

That substantial renovation on the structure known as the McKay Building begin by July 1, 1999; and

That the McKay Building will be converted into residential units and retail space as described in the "Property and Project Description" section of the Feasibility Study; and

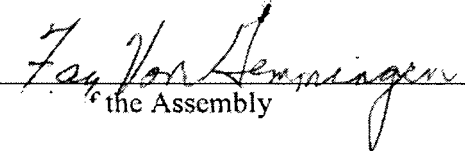
- That the property between Cordova and Eagle Streets and 3rd and 4th Avenues be replatted into three lots as stated in Mr. Marlow's application for tax exemption and deferral; and

That AMC 12.35 comply with State law.

- That the Municipal Attorney issue a written opinion that AMC 12.35 is in compliance with State law; and
- That Mr. Marlow complies with all other conditions of AMC 12.35.

Section 2. This resolution shall take effect immediately upon approval by the Anchorage Municipal Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 17th day of November, 1998.


the Assembly

ATTEST:


Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 1073-98

Meeting Date: November 17, 1998

From: Mayor

Subject: Application for Tax Exemption and Tax Deferral for Deteriorated Property

In September the Assembly approved changes to the Anchorage Municipal Code that allowed for consecutive partial exemption and partial deferral of real property taxes for property designated as deteriorated (AO 98-135[S-1]). The Assembly also designated as Deteriorated Area all the property between Cordova and Eagle Streets and 3rd and 4th Avenues (AO 98-136[S]). Mr. Marc Marlow, in accordance with AMC 12.35, applied to the Chief Fiscal Officer for an exemption for 99% of the property taxes due for a period of five years and a tax deferral for a period of five years commencing upon the exhaustion of the tax exemption for all property between Cordova and Eagle Streets and 3rd and 4th Avenues. The Administration has reviewed Mr. Marlow's application, discussed it with him and now recommends the Assembly approve his application for exemption and deferral subject to the following conditions precedent to the effectiveness of the exemption and deferral:

That Mr. Marlow secure title to all the property between Cordova and Eagle Streets and 3rd and 4th Avenues. Mr. Marlow currently owns or has options to buy all the property identified above. If he cannot get title to all the property, he will be unable to renovate the structure known as the McKay Building.

That substantial renovation on the structure known as the McKay Building begin by July 1, 1999. Mr. Marlow has stated he needs the exemption and deferral to secure the financing to renovate the McKay Building into quality apartments. Mr. Marlow has indicated substantial renovation will begin in the summer of 1999.

That the McKay Building be converted into quality apartments. AO 98-136(S) indicated that the substantial renovation on the McKay Building would end up with quality apartments. The feasibility report prepared by O'Connor Consulting Group, LLC evaluated the feasibility of a high rise apartment complex. They concluded the project of quality apartments was feasible if the MOA granted both a five-year tax exemption and a five-year tax deferral. If something other than a quality high-rise apartment is constructed, the feasibility is in question.

That the property between Cordova and Eagle Streets and 3rd and 4th Avenues be replatted into three lots as stated in Mr. Marlow's application for tax exemption and deferral. In Mr. Marlow's application he indicated he was going to replat the area into three lots. Since State law has restrictions on what can qualify for exemption and that a piece of property can be granted only one exemption, this replatting must occur first to allow the granting of the exemption and deferral.

AR 98-363

That AMC 12.35 comply with State law.

- That the Municipal Attorney issue a written opinion that AMC 12.35 is in compliance with State law. The Municipal Attorney has advised the Administration that AMC 12.35 currently does not comply with State law. Mr. Marlow has indicated he will attempt to have the State law changed in the next session.

These conditions were developed with Mr. Marlow's input and concurrence per the Brian R. O'Conner, MAI and Scott A. Wilson, *Market & Feasibility Study of the Proposed: McKay Building Renovation Project, East Fourth Avenue and Denali Street, Anchorage, Alaska*, May 22, 1998, Ref. No. 98-075 attached hereto as Exhibit A. and incorporated herein by reference.

The Administration recommends approval of AR No. 98- 363

Concurrence:


George Vakalis
Municipal Manager

Prepared by:


Soren Orley
Chief Fiscal Officer

Respectfully submitted,


Rick Mystrom
Mayor

Concurrence:


Elaine Christian
Executive Manager



O'CONNOR
CONSULTING
GROUP, LLC

500 UNION STREET
SUITE 650
SEATTLE, WA 98101

June 25, 1998
Ref. No. 98-075

Mr. John G. Henkle
SEATTLE MORTGAGE
1800 - 112th Avenue NE, Suite 300
Bellevue, Washington 98006

RE Market and Feasibility Study of the Proposed McKay Building Renovation Project
in Anchorage, Alaska.

Dear Mr. Henkle:

In accordance with your request, we have performed a review of the subject's immediate market area and have provided a detailed market and feasibility study for the proposed development scenario. This study provides an analysis of current and anticipated market conditions for the proposed use of the subject property as a high-rise apartment building.

Please understand that this report is not intended to serve as an appraisal of the subject property's site or proposed improvements. While a range of investment values are estimated within this analysis, these are intended to serve as a basis for determining a likely range of investment yields produced by the development process. We believe that the range of investment values estimated has a high probability of encompassing the market value of the proposed development at completion of construction and would, therefore, provide a reasonable basis of reviewing the investment potential of the development.

Specifically, it should be noted that the range of investment values and performance statistics have been based on a review of preliminary plans, specifications, and costs for the proposed improvements as provided by the developer. A variety of economic, demographic, and market data has also been reviewed for the purposes of estimating the market rents and operating expenses of the completed development, as well as a range of capitalization rates, absorption rates, and other investment criteria. The reliability of the analyses undertaken are limited by the preliminary nature of the improvement plans, appropriate comparable data, and the lack of correlating analyses (i.e., Cost and Sales Comparison Approach) which are typically included in a self-contained appraisal report. Please note specific assumptions and limiting conditions that are referenced within the body and addenda of the attached feasibility report.

In regards to market balance and effective demand for the subject, our review of current and anticipated apartment market conditions suggests that there will be sufficient demand for the subject units to provide reasonable absorption at the time of completion.

Mr. John G. Henkle

June 25, 1998

Page Two

A number of factors contribute to this conclusion. These include a forecast for continued stability in the regional economy and housing markets, favorable demographic demand factors, and long-term downtown housing needs. These factors are expected to produce a climate that is favorable for new development.

A number of specific marketability issues have been raised in this analysis. A high-rise apartment building, such as the subject, represents a significant departure from the vast majority of this market's inventory. Development of this kind is generally produced at that point in a city's life cycle where land development pressures and "cosmopolitan" urban energy begins to emerge. The process of such "in-fill" development necessarily begins in marginal neighborhoods where vacant, well depreciated, low intensity improvements are found. These transitional neighborhoods give rise to concerns over market appeal; however, it is our belief that appropriate marketing, design, and management solutions exist that can easily mitigate these issues. A number of these solutions are highlighted in the body of the report.

In terms of financial feasibility, our analysis of the project's investment potential leads to a general, if conditional, assessment. Three particular factors play a significant role in this judgement. First, we have undertaken to work with the developer in order to optimize the unit mix and efficiency of the architectural plan. It is our belief that the average unit size of the project must stay at or below approximately 650 square feet and that corresponding building efficiency ratios must remain near or above 80% in order to produce the highest possible income. Naturally, the buildout of the units and common areas should be commensurate with these rent levels and have been assumed to exceed the standard for the market.

Of the two remaining factors that will help ensure the project's success, the most critical would appear to be the tax abatement program that has been approved for use in developments such as the subject. While specific approval for its application in the subject's case has not been made as of completion of this analysis, it is considered likely. In terms of significance, we believe that the benefit of the ten-year program, whether calculated as a net present value or as an annual boost to equity cash flow, comprises between 50% and 100% of the venture's investment returns. Finally, to a lesser extent, the advantageous HUD financing plays a secondary, but contributory role to the improvements as well.



Mr. John G. Henkle
June 25, 1998
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We hope the report that follows will provide an appropriate foundation for your underwriting process. Please call if we can be of further assistance or clarify any questions you may have.

Sincerely,

O'CONNOR CONSULTING GROUP, LLC



Brian R. O'Connor, MAI



Scott A. Wilson, Associate



Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

AR 2004-7

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED		
	Amending AR 98-363 to Permit Transfer of the Tax Exemption Granted to Marc Marlow for a Deteriorated Area Around the Mcky Building		1/2/2004		
			Indicate Documents Attached <input type="checkbox"/> AO <input checked="" type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM		
2	DEPARTMENT NAME		DIRECTOR'S NAME		
	Assembly		Dick Traini		
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER		
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE		
	Mayor				
	Heritage Land Bank				
	Merrill Field Airport				
	Municipal Light & Power				
	Port of Anchorage				
	Solid Waste Services				
	Water & Wastewater Utility				
	Municipal Manager				
	Cultural & Recreational Services				
	Employee Relations				
	Finance, Chief Fiscal Officer				
	Fire				
	Health & Human Services				
	Office of Management and Budget				
	Management Information Services				
	Police				
	Planning, Development & Public Works				
	Development Services				
	Facility Management				
	Planning				
	Project Management & Engineering				
	Street Maintenance				
	Traffic				
	Public Transportation Department				
	Purchasing				
	Municipal Attorney				
	Municipal Clerk				
	Other				
5	Special Instructions/Comments				
	<i>B. Henderson - Note</i>				
6	ASSEMBLY HEARING DATE REQUESTED		7	PUBLIC HEARING DATE REQUESTED	
	<i>1/6/04</i>				