

COUNCIL COMMUNICATION

Council _____ moved that an ordinance introduced December 7, 2009, entitled and reading as follows, be taken up and enacted:

AN ORDINANCE TO DELETE "LOW INCOME HOUSING TAX EXEMPTION FOR WOLGAST CORPORATION", AND TO ADD IN ITS PLACE "LOW INCOME HOUSING TAX EXEMPTION FOR WICKES PARK HOMES LIMITED DIVIDEND HOUSING ASSOCIATION PARTNERSHIP", TO THE TABLE OF SPECIAL ORDINANCES VIII.

Section 1. "Low Income Housing Tax Exemption For Wolgast Corporation", is hereby deleted and "Low Income Housing Tax Exemption For Wickes Park Homes Limited Dividend Housing Association Partnership," is hereby added in its place to the Table of Special Ordinances VIII of the City Of Saginaw Code Of Ordinances, O-1, and shall read as follows:

LOW INCOME HOUSING TAX EXEMPTION

This ordinance shall provide for a service charge in lieu of taxes for a proposed single-family lease/purchase dwelling project for persons of low income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

(A) *Preamble.*

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge to be paid in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL Section 125.1401 et seq.). 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

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amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low 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; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The City acknowledges that Wickes Park Homes Limited Dividend Housing Association Partnership (the "sponsor") has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to erect, own and operate a housing development identified as Wickes Park Homes on certain property located in the City of Saginaw, County of Saginaw, State of Michigan described on Exhibit A which is kept on file with the City Clerk, the keeper of records for the City of Saginaw, and is incorporated herein by reference to serve persons of low income; and that the Sponsor has offered to pay to the City on account of such Housing Development an annual service charge for public services in lieu of all taxes.

(B) *Definitions.*

(1) Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

(2) Annual Shelter Rents means the total collections during an agreed annual period from all occupants of a Housing Development representing rent or occupancy

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charges, exclusive of charges for gas, electricity, water and sanitary sewer service, or other utilities furnished to the occupants.

(3) Authority means the Michigan State Housing Development Authority.

(4) Contract Rents are as defined by the U. S. Department of Housing and Urban Development in regulations promulgated pursuant to the U. S. Housing Act of 1937, as amended.

(5) Family means low income persons and families: persons or families eligible to live in the Housing Development.

(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) Mortgage Loan means a loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the Housing Development.

(8) Sponsor means person(s) or entities which have applied to the Authority for a Mortgage Loan to finance a Housing Development.

(C) *Class of Housing Developments.*

It is determined that the class of Housing Development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such tax shall be family, which are financed or assisted pursuant to the Act. It is further determined that Wickes Park Homes is of this class.

(D) *Establishment of Annual Service Charge.*

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The Housing Development identified as Wickes Park Homes and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The City, acknowledging that the Sponsor and the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes as established in this Ordinance, and in consideration of the Sponsor's offer, subject to receipt of a Mortgage Loan from the Authority to construct, own, and operate the Housing Development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to four (4%) percent of Annual Shelter Rents.

(E) *Limitation on the Payment of Annual Service Charge.*

Notwithstanding Section D, the service charge to be paid each year in lieu of taxes for the part of the Housing Development 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 which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt.

(F) *Contractual Effect of Ordinance.*

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 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 City Manager and the City Clerk shall be and hereby are authorized to execute any and all

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contracts which may be required by the Authority for the purpose of effectuating and executing the provisions of this section.

(G) *Payment of Service Charge.*

The annual service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the City except that the annual payment shall be paid on or before January 1 of each year.

(H) *Duration.*

This Ordinance shall remain in effect and shall not terminate so long as the Mortgage Loan remains outstanding and unpaid or the Authority has any interest in the property; provided, that the construction of the Housing Development commences within one year from the effective date of this Ordinance.

(H) *Severability.*

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

Section 2. This ordinance shall become effective December 31, 2009.

Enacted: December 21, 2009.