

CHAPTER 2018-48

No. 463 **AN ORDINANCE AMENDING CHAPTER 21, "REVENUE AND FINANCE," ARTICLE XV, "REAL ESTATE NON-UTILIZATION TAX"**

Approved October 9, 2018

Be it ordained by the City of Providence:

SECTION 1. The Code of Ordinances of the City of Providence, Chapter 21, "Revenue and Finance," Article XV, "Real Estate Non-Utilization Tax," is hereby amended as follows:

ARTICLE XV. - REAL ESTATE NON-UTILIZATION TAX

Sec. 21-251. - Authority.

In accordance with the express enabling authority granted by the General Assembly in R.I.G.L. § 44-5.1 there is hereby established in the city a real estate non-utilization tax.

Sec. 21-252. - Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section:

Abutter means a neighbor whose property touches the property in question.

Actively marketed means the good faith efforts by the owner of the property to obtain one (1) or more occupants of the property. These good faith efforts may include, without limitation, one (1) or more of the following:

- (1) Making substantial financial expenditures in comparison with the value of the property;
- (2) Listing the property for sale or lease, or both, with one (1) or more real estate brokers, for a price and on terms, or for a rental that is realistic considering the fair market value or fair market rental value of the property; or
- (3) Advertising, using one (1) or more signs on the property and at least one (1) other medium, the availability of the property for sale or rental for a price and on terms, or at a rental that is realistic considering the fair market value or fair rental value of the property. Sporadic attempts to sell or lease the property during the privilege year may be viewed as not constituting a good-faith marketing effort.

Continuously unoccupied means any property which is listed during the entire privilege year as vacant in the records of the department of inspection and standards.

Development plan means a plan to rehabilitate a vacant and abandoned property within a set time frame for a use in conformance with the city's comprehensive plan and zoning ordinance.

New owner means any person who has purchased the vacant and abandoned property during the period subsequent to the notice of designation as vacant and abandoned.

Nonprofit housing organization means any organization exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) whose exempt purposes include the provision of affordable housing to low and moderate income households.

Privilege year means the twelve-month period corresponding to the calendar year.

Reviewing entity means the administrative officer, designated in accordance with R.I.G.L. § 45-23-55; if no administrative officer has been so designated, then the city planning commission.

RI Housing means Rhode Island Housing and Mortgage Finance Corporation, a public corporation created under Chapter 55 of Title 42 of the Rhode Island General Laws.

Vacant and abandoned property means any property which is:

- (1) A structure that has been determined to be continuously unoccupied by the department of inspection and standards during the privilege year; and
 - a. Has been under continuous citation by the department of inspection and standards; or
 - b. Has not been maintained as evidenced by the exterior condition of the structure.
- (2) A lot with no existing structure that is littered with trash and obviously abandoned.

Sec. 21-253. - Notice of designation as vacant and abandoned.

- (a) The department of inspections and standards shall, upon designation of a property as vacant and abandoned, notify the owner in writing of the date of designation of the property as vacant and abandoned and the date upon which the non-utilization tax shall be imposed and said notice shall be immediately sent to the City Assessor. The department of inspections and standards shall file the notice of designation as vacant and abandoned with the recorder of deeds.
- (b) Any person or entity who, through foreclosure or otherwise, vacates or maintain vacant property shall notify the department of inspections and standards.

Sec. 21-254. - Imposition.

- (a) The city imposes a tax upon the privilege of utilizing property as vacant and abandoned property within the city during any privilege year commencing with the privilege year beginning January 1, 1984, and every year thereafter. The tax shall be in addition to any other taxes authorized by the general or public laws.
- (b) The city shall, through the Office of the City Assessor, annually impose upon any property which is vacant and abandoned, as determined by the department of inspections and standards, a non-utilization tax measured by the assessed value of the real estate at the rate of ten dollars (\$10.00) for each one hundred dollars (\$100.00) of assessed value of the real estate as most recently returned by the tax assessor of the city.
- (c) The tax imposed under authority of this chapter shall be due and payable in the same manner as other municipal taxes are due in the city.

Sec. 21-255. - Exceptions.

- (a) The non-utilization tax authorized by this article shall not be imposed on property
 - (1) Owned by an abutter, a new owner, or a nonprofit housing organization if:
 - (i) The abutter, new owner, or nonprofit housing organization submits a proposed development plan to the administrative officer, designated in accordance with R.I.G.L. § 45-23-55; if no administrative officer has been so designated, then to the city planning commission;
 - (ii) The administrative officer, in accordance with R.I.G.L. § 45-23-55, or if no administrative officer, then the city planning commission, determines that the proposed development plan contains a reasonable timetable for the development or reuse of the property;

(iii) The administrative officer, in accordance with R.I.G.L. § 45-23-55, or if no administrative officer, then the city planning commission, determines that the abutter, new owner, or nonprofit housing organization has obtained adequate funding for the development plan; and

(iv) The administrative officer, in accordance with R.I.G.L. § 45-23-55, or if no administrative officer, then the city planning commission determines that the proposed development plan is in accordance with the approved comprehensive plan and zoning ordinances of the city and approves it.

(2) The administrative officer, in accordance with R.I.G.L. § 45-23-55, or if no administrative officer, then the city planning commission, shall deliver a copy of the approved development plan to the tax assessor who shall certify the property as exempt from the non-utilization tax.

(3) Failure of the nonprofit housing organization, new owner or abutter, without good cause, to carry out the development or refuse of the property in accordance with the timetable set forth in the approved development plan shall result in the property being subject to the non-utilization tax as of the first date of assessment following the expiration of the timetable in the approved development plan.

(4) The decision of the administrative officer, or the city planning commission, denying approval of a development plan may be appealed as provided in section 21-257 of this article.

(b) The non-utilization tax authorized by this article shall not be imposed on property for which RI Housing:

(1) Holds an interest on the property pursuant to R.I.G.L. § 44-9-8.3;

(2) Holds a first mortgage on the property, which mortgage is insured under any federally sponsored mortgage insurance program, including, without limitation, programs sponsored by the Federal Housing Administration (FHA), the Federal Home Loan Mortgage Administration (Freddie Mac) or the Government National Mortgage Association (Ginnie Mae); or

(3) Owns the property under the RI Housing land bank program, which property is intended for development into housing for low- or moderate-income households.

Sec. 21-256. - Abatement of tax.

The tax assessor is empowered to abate the non-utilization tax if it is imposed in error.

Sec. 21-257. - Appeals.

(a) In any appeal from the imposition of the tax set forth in this article, the board of tax assessment review shall find in favor of an appellant who shows that the property assessed:

(1) Was actively marketed during the privilege year; or

(2) Was occupied for substantial portions of the privilege year, notwithstanding its designation by the department of inspection and standards.

(3) Was exempt pursuant to section 21-255 of this article from the imposition of the tax as set forth in that section.

(b) Nothing contained in this article shall be deemed to enlarge or diminish any other right of appeal that an appellant may possess pursuant to the general or public laws or city ordinances.

Sec. 21-258. - Use of collected taxes.

One-half (50%) of all taxes collected under the provisions of this article shall be allocated to the affordable housing trust in accordance with Section 13-18 of the Code of Ordinances.

Sec. 21-259. - [Reserved.]

SECTION 2. This ordinance shall take effect upon passage.

In City Council
JUL 23 2018
 Read and Passed the First Time
 And Referred *Back To The Committee*
 On Finance
Lou L. Hogen Clerk

IN CITY
 COUNCIL
OCT 04 2018
 FINAL READING
 READ AND PASSED
[Signature]
 PRESIDENT
[Signature]
 CLERK

I HEREBY APPROVE.
[Signature]

 Mayor
 Date: 10/9/18