

**RESOLUTION R-2021-04
LUZERNE COUNTY COUNCIL**

*A Resolution of the County of Luzerne Providing Tax Exemption for New
Construction in Deteriorated Areas under the Local Economic Revitalization Tax
Assistance Act*

WHEREAS, under the Local Economic Revitalization Tax Assistance Act (“LERTA”), 72 P.S. §4722 et seq., Luzerne County is a local taxing authority that has the power to provide tax exemption for new construction in “deteriorated areas”; and

WHEREAS, under section 2.09.B.2. of the Luzerne County Home Rule Charter, Luzerne County Council has the authority to levy, establish, alter, and/or abolish taxes and assessments except as may be limited by the Home Rule Charter or applicable law; and

WHEREAS, the Hazle Township Board of Supervisors believes that providing tax exemptions under LERTA will encourage new industrial, commercial, and business development in the deteriorate areas, and in turn lead to additional tax revenue for Hazle Township and Luzerne County; and

WHEREAS, the Council for the City of Hazleton believes that providing tax exemptions under LERTA will encourage new industrial, commercial, and business development in the deteriorate areas, and in turn lead to additional tax revenue for the City of Hazleton and Luzerne County; and

WHEREAS, the Board of Education for the Hazleton Area School District believes that providing tax exemptions under LERTA will encourage new industrial, commercial, and business development in the deteriorate areas, and in turn lead to additional tax revenue for the Hazleton Area School District, Hazle Township, the City of Hazleton and Luzerne County; and

WHEREAS, pursuant to the LERTA Statute, the City of Hazleton (the “City”) adopted Ordinance No. 2008-16 on October 22, 2008 (the “Ordinance”) and held hearings to define the boundaries of the deteriorated areas within the City in accordance with the procedure set forth in the LERTA Statute; and

WHEREAS, pursuant to the LERTA Statute, Hazle Township (the “Township”) adopted Ordinance No. 98-6-16-1 on June 16, 1998 (the “Ordinance”) and held hearings to define the boundaries of the deteriorated areas within the Township in accordance with the procedure set forth in the LERTA Statute; and

WHEREAS, certain vacant land to be developed by Hazleton Creek Commerce Center Holdings, LLC, as more fully described in Exhibit A attached to this Resolution and incorporated by reference is within the area designated by the City and the Township as “deteriorated property” as set forth in the Ordinances, and is therefore entitled to an exemption from municipal real property taxes under LERTA for a period of ten (10) years; and

WHEREAS, Hazleton Creek Commerce Center Holdings, LLC, requested the City of Hazleton, Hazle Township and the Hazleton Area School District grant a tax exemption for certain “improvements” to be constructed on the real estate more fully described in Exhibit A; and

WHEREAS, Hazleton Creek Commerce Center Holdings, LLC, has represented to the the City of Hazleton, Hazle Township and the Hazleton Area School District a project to develop the deteriorated property; and

WHEREAS, Hazleton Creek Commerce Center Holdings, LLC, has represented to the City of Hazleton, Hazle Township and the Hazleton Area School District the project as shown on the Land Development Plan last revised October 22, 2020 situate in the City of Hazleton shall consist of the construction of Five Million Five Hundred Thousand Square Feet of commercial space; and

WHEREAS, Hazle Township approved Hazleton Creek Commerce Center Holdings, LLC request for LERTA designation at a public meeting on November 9, 2020; and

WHEREAS, the City of Hazleton approved Hazleton Creek Commerce Center Holdings, LLC request for LERTA designation at a public meeting on November 10, 2020; and

WHEREAS, the Hazleton Area School District approved Hazleton Creek Commerce Center Holdings, LLC request for LERTA designation at a public meeting on November 24, 2020; and

WHEREAS, the Luzerne County Council also believes that providing tax exemptions under LERTA will encourage new industrial, commercial, and business development in the deteriorated areas defined by the Hazle Township Board of Supervisors and the City of Hazleton, and in turn lead to additional tax revenue for Hazle Township, the City of Hazleton, the Hazleton Area School District, and Luzerne County; and

NOW, BE IT RESOLVED BY LUZERNE COUNTY COUNCIL, as follows:

SECTION ONE. Incorporation of Preamble.

The provisions set forth above in the preamble to this Resolution are incorporated herein by reference in their entirety.

SECTION TWO. Definitions.

The below terms will be defined as follows for the purposes of this Resolution.

2.1 "*Deteriorated Property*" means any industrial, commercial or other business property located in an eligible deteriorating area as defined hereinafter, or any such property which has been the subject of an order of a governmental agency requiring the property to be vacated, condemned or demolished by reason of non-compliance with laws, ordinances or regulations.

2.2 "*Improvement*" means repair, new construction or reconstruction, building alterations or additions, having the effect of rehabilitating deteriorated property so that it becomes habitable or attains higher standards of safety, heal economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep or maintenance shall not be deemed an improvement.

2.3 "*Deteriorated Area*" means the real estate located in Hazle Township that the designated as deteriorated areas in Resolution #2020-30 dated November 9, 2020 and the real estate located in the City of Hazleton that the Council of the City of Hazleton designated as deteriorated areas in Resolution #2020-84 dated November 10, 2020.

SECTION THREE. Exemptions.

3.1 The amount to be exempted from real estate taxes is limited to that portion of the additional assessment attributable to the actual cost of new construction in the Deteriorated Area or improvements to the Deteriorated Property, the applicant is responsible for paying all applicable Luzerne County taxes not associated with the new improvements.

3.2 The exemption from real estate taxes is limited to improvements or new constructions for which an exemption has been requested in the manner set forth in this Resolution. All other applicable Luzerne County property taxes are not exempt and must be paid.

3.3 The exemption commences on the date that the improvement or new construction is assessed by the Luzerne County Assessor's Office. At that time, the said improvements will be exempt according to the following schedule:

Year 1 through Year 10: The percentage of the assessed value of eligible improvements that is exempt from taxation shall equal an amount such that the resulting Luzerne County real property tax liability for each tax year is equal to \$10,000.00 in total for the property described in Exhibit "A".

In no way shall the property tax exemption for LERTA continue beyond the tenth (10th) year following the final assessment of eligible real property Improvements.

3.4 The exemption from taxes granted under this Resolution does not terminate upon the sale or exchange of the property.

SECTION FOUR. Procedure for Obtaining Exemption.

4.1 Any person desiring tax exemption under this Resolution ("Applicant") shall submit an application with the Luzerne County Tax Assessor's Office. The Applicant shall submit the application within forty-five (45) days of receiving the building permit the improvement or new construction, if the improvement or new construction does not require a building permit, the Applicant shall submit the application within forty-five (45) days of commencing the construction. The application must be in writing and must provide the following information:

4.1.1 the name of the owner or owners of the deteriorated area;

4.1.2 the date the building permit was issued for the improvement or new construction (if applicable); and

4.1.3 the date when the Applicant commenced the construction for the improvement or new construction ("if applicable"); and

4.1.4 the location of the property including tax parcel identification numbers; and

4.1.5 a brief description of the proposed improvement or new construction; and

4.1.6 estimated costs of the improvement or new construction; and

4.1.7 any other information that Luzerne County may require.

4.2 Upon completion of the improvement or new construction, the Applicant shall notify the Luzerne County Tax Assessor's Office by writing that the improvement or new construction is complete. The Luzerne County Tax Assessor's Office shall then separately assess the new construction or improvement and calculate the amount of the assessment eligible for tax exemption in accordance with the limits established by this Resolution. The Luzerne County Tax Assessor's Office shall then notify the Applicant, Hazle Township, City of Hazleton, Luzerne County, and the Hazleton Area School District of the reassessment and the amount of the assessment eligible for the exemption.

4.3 Any Local Taxing Authorities may appeal the reassessment and the amount eligible for exemption as provided by law.

4.4 The cost of the new construction or improvements to be exempted existing at the time of the initial request for tax exemption shall be applicable to that exemption request, and subsequent amendment to this Resolution, if any, shall not apply to the adoption of any such amendment.

SECTION FIVE. Termination Date.

An application for exemption may be made at any time within ten years from the effective date of this Resolution. All qualified applications under this Resolution are eligible for the entire ten year exemption schedule.

SECTION SIX. Extension.

Luzerne County will not extend the time for filing an application for exemption.

SECTION SEVEN. Revocation of LERTA Exemption.

The exemption from real estate taxes provided for herein shall be forfeited by the Applicant and/or any subsequent owner of the real estate for the failure to pay any nonexempt real estate taxes by the last day of the time period to pay such taxes in the penalty period. Upon receipt of the notice of nonpayment of nonexempt real estate taxes, Luzerne County shall discontinue the LERTA exemption.

SECTION EIGHT. Amendments.

No amendments to this Resolution are effective unless the Luzerne County Council consents to the amendment by Resolution.

SECTION NINE. Repealer.

This Resolution repeals any other resolution or ordinance inconsistent with this Resolution.

SECTION TEN. Severability.

If any part of this Resolution is unenforceable to any extent for any reason, the rest of the Resolution will remain fully enforceable.

SECTION ELEVEN. Effective Date.

This Resolution shall become effective fifteen (15) days from the date of enactment.

SECTION TWELVE. Further Authorization.

The administration and officials for Luzerne County are directed and authorized to take any action needed to carry out the intent of this Resolution.

ADOPTED at a meeting of the Luzerne County Council held January 26, 2021.

ROLL CALL VOTE (7-4)

YES: McDermott, McGinley, Perry, Radle, Saidman, Schnee and Vough

NO: Griffith, Haas, Houck and SJ Urban

LUZERNE COUNTY COUNCIL

By: Tim McGinley
Tim McGinley, Chair

Attest:

Sharon Lawrence, Clerk of Council

LUZERNE COUNTY MANAGER

By: C. David Pedri
C. David Pedri, Esq., County Manager