

5D-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

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Meeting Date: 12/17/2013 Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning, and Building Department

Submitted By: Planning Division

Submitted For: Planning Division

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **A) adopt** a resolution of the Board of County Commissioners (BCC) of Palm Beach County, Florida, granting a County tax exemption for a historic property located within the City of Delray Beach; and **B) approve** the restrictive covenant for the historic property, requiring the qualifying improvements be maintained during the period that the tax exemption is granted.

Summary: The resolution will authorize a County tax exemption for the following historic property located within the City of Delray Beach:

Address: 124 North Swinton Avenue, Old School Square Historical District, Delray Beach (Commercial)

If granted, the tax exemption shall take effect January 1, 2014, and shall remain in effect for ten (10) years or until December 31, 2023. The exemption shall apply to 100 percent of the assessed value of all improvements to the historic property, which resulted from restoration, renovation, or rehabilitation of the property. Actual exemption amounts will be based upon the Countywide Millage rate on a yearly basis. It is estimated that approximately \$1,176 tax dollars will be exempted annually based on the 2014 Countywide Millage rate. Accompanying each resolution is a restrictive covenant, which requires the qualifying improvements be maintained during the period that each tax exemption is granted. District 7 (RPB)

Background and Policy Issues: On October 17, 1995, the BCC adopted a historic property tax exemption ordinance, Ordinance No. 95-41, applicable countywide. The ordinance allows a qualifying local government to enter into an interlocal agreement with the County to perform review functions necessary to implement the ordinance within its municipal boundary. An Interlocal Agreement was approved by the BCC on April 7, 1998, R 98 472 D, authorizing the City of Delray Beach Historic Preservation Board to perform the required review to implement the tax exemption ordinance on improvements to historic landmark properties within the City.

The historic property has filed preconstruction applications and final applications with the City of Delray Beach Historic Preservation Board. Following review of the completed improvements, the City's Historic Preservation Board determined the improvements were consistent with the U.S. Secretary of Interior's Standards for Rehabilitation, and recommended approval for tax exemption. The Delray Beach City Commission then granted an ad valorem City tax exemption to the historic property.

The property is privately owned for commercial use.

Copies of the City of Delray Beach Historic Preservation Board application and other back-up information for the property are available for review at the County's Planning Division.

Attachments:

1. Property Owner List
 2. Resolution (2 copies)
 3. Historic Preservation Property Tax Exemption Covenant (1 copy)
 4. City of Delray Beach Historic Tax Exemption Resolution (1 copy)
 5. Tax Break Down by Property, Year and Ten Year Total
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Recommended By: *Debra Caldwell* 11/15/13
 Executive Director Date

Approved By: *[Signature]* 12/3/13
 Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>\$1,176</u>	<u>\$1,176</u>	<u>\$1,176</u>	<u>\$1,176</u>	<u>\$1,176</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$1,176</u>	<u>\$1,176</u>	<u>\$1,176</u>	<u>\$1,176</u>	<u>\$1,176</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no direct fiscal impact on the Planning, Zoning and Building Department from granting a tax exemption for each property. The overall County impact is a reduction of collectable taxes. Tax revenue is to be reduced at most by the tax on the improvements made to the structure. The estimated improvement costs attributed solely to work on the historic building totals \$246,020. Estimated exemption will be based upon the Countywide Millage Rate (4.7815), it is estimated that approximately \$1,176 tax dollars will be exempted annually.

The estimated total tax exempted for the ten years ending December 31, 2023 is \$11,760 (\$1,176 X 10).

C. Departmental Fiscal Review: Rob D'Agostino

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Susan Neary 11/18/13
 OFMB *HP* *
 11/8 11/18/13

Ann J. Jacobson 11/26/13
 Contract Dev. and Control
 11-26-13 *Bea Reeler*

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

PROPERTY OWNER LIST

2014 City of Delray Beach Historic Property Tax Exemption

Property Owner - Address - Use of Building

Owner: Isabella I. Investments, LLC.

Property: 124 North Swinton Avenue,
Old School Square Historic District
Delray Beach, FL 33444

Use: Commercial

RESOLUTION NO. R-2013-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE HISTORIC REHABILITATION OF THE PROPERTY LOCATED AT 124 NORTH SWINTON AVENUE, OLD SCHOOL SQUARE HISTORIC DISTRICT, DELRAY BEACH, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the citizens of Florida amended the Florida Constitution, Article VII, Section 3, to authorize counties and municipalities to grant a partial ad valorem tax exemption to owners of historic properties for improvements to such properties which are the result of the restoration, renovation, or rehabilitation of the historic properties; and,

WHEREAS, the Board of County Commissioners has approved an ordinance providing for an ad valorem tax exemption for the restoration, renovation, and/or improvement of historic properties within the County (Ordinance No. 95-41); and

WHEREAS, the ad valorem tax exemption is one means of offering a financial incentive to increase interest in restoring, renovating, and improving the county's historic structures; and,

WHEREAS, the Board of County Commissioners has approved an interlocal agreement with the City of Delray Beach (R 98 472 D) for implementation of tax exemptions on improvements to historic landmark properties; and,

WHEREAS, this interlocal agreement delegates review of properties within the City of Delray Beach to the municipal historic preservation agency; and,

WHEREAS, this property has been certified as a qualified property by the City of Delray Beach based on the fact that the property is a locally designated historic property or landmark, in accordance with local historic preservation ordinance (Ordinance No. 95-41); and,

WHEREAS, the property owner(s) Isabella I. Investments, LLC, filed a Preconstruction Application and received preliminary approval from the City of Delray Beach Historic Preservation Board (HPB) on July 7, 2010, for an ad valorem tax

exemption for the historic renovation and restoration of the property located at 124 North Swinton Avenue, Old School Square Historic District, Delray Beach and,

WHEREAS, the City of Delray Beach Historic Preservation Board reviewed the Final Application on January 18, 2012, for a determination that the completed improvements were consistent with the United States Secretary of Interior's Standards for Rehabilitation and recommended approval to grant an ad valorem City tax exemption to Isabella I. Investments, LLC, for the restoration, renovation, and improvement to the property located at 124 North Swinton Avenue, Old School Square Historic District, Delray Beach; and,

WHEREAS, the Delray Beach City Commission on July 9, 2013, determined that the completed improvements were consistent with the United States Secretary of Interior's Standards for Rehabilitation and granted an ad valorem City tax exemption to Isabella I. Investments, LLC, for the restoration, renovation, and improvement to the property located at 124 North Swinton Avenue, Old School Square Historic District, Delray Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The Board of County Commissioners hereby approves an ad valorem County tax exemption to the property owner(s), Isabella I. Investments, LLC, for a 10 year period, commencing on the January 1, 2014, from that portion of ad valorem County taxes levied on the increase in assessed value resulting from the renovation, restoration, and rehabilitation of the property located at 124 North Swinton Avenue, Old School Square Historic District, Delray Beach, which property is legally described as follows and which improvements are described in HPB Case No. 2012-130:

Town of Delray S. 4.5 Ft of Lot 11 and N. 70.5 of Lot 12
BLK 59 (Old School Square Historic District) according to
the plat thereof, as recorded in the Public Records of Palm
Beach County, Florida.

2. Prior to the ad valorem tax exemption described herein being effective, Isabella I. Investments, LLC, shall execute and record a restrictive covenant in a form established by the State of Florida, Department of State, Division of Historical Resources, requiring the qualifying improvements be maintained during the period that the tax exemption is granted.

3. The Board finds that the property meets the requirements for tax exemption under Section 196.1997, Florida Statutes.

4. The provisions of this resolution shall become effective upon the execution of this agreement.

5. One copy of this agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

- Commissioner Hal R. Valeche
- Commissioner Paulette Burdick
- Commissioner Shelley Vana
- Commissioner Steven L. Abrams
- Commissioner Mary Lou Berger
- Commissioner Jess R. Santamaria
- Commissioner Priscilla A. Taylor

The Chair there upon declared the Resolution duly passed and adopted this ____ Day of _____, 2013.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK AND
COMPTROLLER

BY: 
Asst. County Attorney

BY: _____
Deputy Clerk

HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT

This Covenant is made this _____ day of _____, 20___, by Isabella I. Investments, LLC (hereinafter referred to as the Owner) and in favor of Palm Beach County (hereinafter referred to as the Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain Property located at 124 North Swinton Avenue, Old School Square Historic District, Delray Beach which is owned in fee simple by the Owner and is listed in the National Register of Historic Places or locally designated under the terms of a local preservation ordinance or is a contributing property to a National Register listed district or a contributing property to a historic district under the terms of a local preservation ordinance. The areas of significance of this property, as defined in the National Register nomination or local designation report for the property or the district in which it is located are X architecture, X history, _____ archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements. The property is more particularly described as follows (include city reference, consisting of repository, book, and page numbers:

Lot 11, Block 59 of the Town of Delray Beach, according to the plat thereof, on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 23084, page 573.

In consideration of the tax exemption granted by the Local Government, the Owner hereby agrees to the following for the period of the tax exemption which is from January 1, 2014 to December 31, 2023.

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places or designation under the provisions of the preservation ordinance.

2. The Owner agrees that no structural alterations will be made to the Property without prior written permission of the Local Historic Preservation Office. The address of the certified Local Historic Preservation Office is, if one exists in the jurisdiction:

City of Delray Beach, Historic Preservation Planner
100 North West 1st Avenue
Delray Beach, Florida 33444
Telephone Number: (561) 243-7000

The address of the Division of Historic Resources is:

Bureau of Historic Preservation
Division of Historical Resources
R.A. Gray Building, 500 South Bronough Street
Tallahassee, Florida 32399-0250
Telephone Number: (850) 487-2333

3. [Only for properties of archaeological significance] The Owner agrees to ensure the protection of the site against willful damage or vandalism. Nothing in this Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is obtained pursuant to 2. above.

4. The Owner agrees that the Local Historic Preservation Office and appropriate representatives of the Local Government, their agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this covenant are being observed.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3) F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office in writing of the damage to the Property, including (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion on a schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have lost or so damaged that restoration is not feasible, the Owner will notify the Local Historic Preservation Office in writing of the loss. The Local Historic Preservation Office will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption. If the Local Historic Preservation Office determines that the property should be removed from eligibility for tax exemption, it will notify the Property Appraiser of the county in which the Property is located in writing so that the tax exemption can be canceled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the Owner in writing. For the purpose of this Covenant, "gross negligence" means omission of care which even inattentive and thoughtless persons never fail to take of their own property. The Owner shall have 30 days to respond indicating any circumstances which show that the damage was not deliberate or due to gross negligence. If the Owner cannot

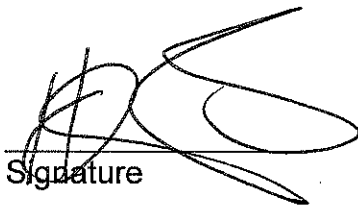
show such circumstances, he shall develop a plan for restoration of the Property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the Owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the differences between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3), F.S.

9. The terms of this Covenant shall be binding on the current Property owner, transferees, and their heirs, successors, or assigns.

This Covenant shall be enforceable in specific performance by a court of competent jurisdiction.

OWNER(S):

Isabella I. Investments, LLC
Name


Signature

12/17/12
Date

IN WITNESS WHEREOF, the Owner and Local Government have executed or have caused this Agreement.

ATTEST:


PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Sharon Bock, Clerk

BY: _____
Deputy Clerk

BY: _____
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
County Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 17th day of December, 2012, by HAROLD ICKOVICS, who are personally known to me or who have produced _____, and _____, respectively, (indicate form of identification) (if left blank personal knowledge existed) as identification.

Carlo D Mallino

Notary Public State of Florida

Notary Print Name:

CARLO D. MALLINO

My Commission Expires:

MAY 9, 2014



RESOLUTION NO. 15-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION TO ISABELLA I. INVESTMENTS, LLC. FOR THE HISTORIC REHABILITATION OF THE PROPERTY LOCATED AT 124 NORTH SWINTON AVENUE, AS FURTHER DESCRIBED HEREIN; DETERMINING THAT THE COMPLETED IMPROVEMENTS ARE CONSISTENT WITH LAND DEVELOPMENT REGULATION (LDR) SECTION 4.5.1(M)(5); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Historic Preservation Program of the City of Delray Beach, Florida (the "City"), is designed to preserve, protect, enhance, and perpetuate resources which represent distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological, and architectural identity; and/or serve as visible reminders of the City's culture and heritage; and

WHEREAS, the citizens of Florida amended the Florida Constitution, Article VII, Section 3, to authorize counties and municipalities to grant a partial ad valorem tax exemption to owners of historic properties for improvements to such properties which are the result of the restoration, renovation, or rehabilitation of the historic properties; and

WHEREAS, the City of Delray Beach City Commission has approved an ordinance providing for an ad valorem tax exemption for the restoration, renovation, and/or improvement of historic properties (Ordinance No. 50-96); and

WHEREAS, the ad valorem tax exemption is one means of offering a financial incentive to increase interest in restoring, renovating, and improving the City's historic structures; and

WHEREAS, Ordinance No. 50-96 provides that on completion of the review of a Final Application/Request for Review of Completed Work, the Historic Preservation Planner shall present such Final Application in a regularly scheduled meeting of the Historic Preservation Board and shall recommend that the Historic Preservation Board grant or deny the exemption; and

WHEREAS, the property owners filed a Preconstruction Application and Completed Work Application for review by the Historic Preservation Board on January 18, 2012, of an ad valorem tax exemption for the historic restoration, renovation, and improvement of the property located at 124 North Swinton Avenue, and the Historic Preservation Board determined that the completed improvements were consistent with LDR Section 4.5.1(M)(5) and recommended approval to grant an ad valorem City tax exemption to Isabella I. Investments, LLC. for the restoration, renovation, and improvement to the property located at 124 North Swinton Avenue.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The City Commission hereby determines that the completed improvements to the property located at 124 North Swinton Avenue, as described in the application for ad valorem tax exemption filed with the City, were consistent with LDR Section 4.5.1(M)(5).

Section 2. The City Commission hereby approves an ad valorem tax exemption to the property owner, Isabella I. Investments, LLC., for a ten year period, commencing on 1/1/14, from that portion of ad valorem taxes levied on the increase in assessed value, between the years 1/1/14 – 12/31/23, resulting from the renovation, restoration, and rehabilitation of the property located at 124 North Swinton Avenue, which property is legally described as follows and which improvements are described in HPB Certificate of Appropriateness No. 2009-197:


South 4.5' of Lot 11 and the North 70.5' of Lot 12, Block 59, Town of Delray

Section 3. Prior to the ad valorem tax exemption described herein being effective, Isabella I. Investments, LLC, shall execute and record a restrictive covenant in a form established by the State of Florida, Department of State, Division of Historical Resources, requiring the qualifying improvements be maintained during the period that the tax exemption is granted. A copy of the recorded covenant shall be provided to the City's Historical Preservation Planner.

Section 4. This resolution shall take effect in accordance with law.

PASSED AND ADOPTED in regular session on the 9th day of July, 2013.

ATTEST:



City Clerk



MAYOR

Attachment 5
Tax Break Down By Property, Year and Ten Year Total
2014 City of Delray Beach County Tax Exemption

Property	Total Cost of Improvements	Estimated Improvement Costs to Historic Buildings	Annual	Total
124 North Swinton Ave.	\$379,699.00	246,020.00	\$1,176.34	\$11,763.45
Total	\$379,699.00	\$246,020.00	\$1,176.34	\$11,763.45

Local government millage rate = 4.7815

\$1,176.34

(estimated improvement cost) x (.0047815) = (annual estimated tax dollars exempted)