

RESOLUTION NO. 332-2023

A RESOLUTION OF THE COUNTY OF BERKS GOVERNING EXEMPTION FROM REAL PROPERTY TAXATION PURSUANT TO ACT NO. 76 OF 1977, KNOWN AS THE LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE ACT (“LERTA”).

WHEREAS, the County of Berks (“County”) is a local taxing authority authorized by the Act of December 1, 1977, P.L. 237, No. 76 (72 P.S. § 4722–4727), known as the Local Economic Revitalization Tax Assistance Act (“LERTA”), to provide tax exemption for new construction in deteriorated areas of economically depressed communities and for improvements to certain deteriorated industrial, commercial, and other business properties; and

WHEREAS, the Berks County Board of Commissioners (“Board”) desires to continue to encourage industrial, commercial, and business development and redevelopment in these deteriorated areas through the use of tax exemptions and abatements, and by providing policies, procedures, and qualifications for the same;

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED BY THE BERKS COUNTY BOARD OF COMMISSIONERS:

1. **Definitions.** Any capitalized terms not otherwise specifically defined in this Resolution shall have the meanings ascribed to them in Section 4724 of Title 72 of the Pennsylvania Statutes. In addition to the words and terms defined elsewhere in this Resolution, each of the following words and terms used in this Resolution shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:
 - (a) “Applicant” means a corporation, partnership, limited liability company, trust, other association, or natural person, duly authorized by the property owner of record, who has applied for a tax exemption as described in this Resolution.
 - (b) “Chief Assessor” means the Chief Assessor for the County of Berks, or his or her designee; or if this position is vacant, an individual designated by the Board of Commissioners to perform the duties described herein.
 - (c) “Director of Community and Economic Development” means the Director of Community and Economic Development for the County of Berks, or his or her designee; or if this position is vacant, an individual designated by the Board of Commissioners to perform the duties described herein.
 - (d) “Improvement” or “Improvements” means new construction or repair, construction or reconstruction, including alterations and additions, but not ordinary upkeep and maintenance, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards.
 - (e) “Municipality” means a city, borough, incorporated town or township in which a Subject Property is located, or the governing body thereof.
 - (f) “Subject Property” means one or more tax parcels for which an application for exemption from real estate taxes is sought by an Applicant pursuant to this Resolution.
2. **Policy.** Where a municipality has approved a tax exemption pursuant to LERTA with respect to industrial, commercial, or other business property, which is consistent with applicable

county and municipal comprehensive plans and adheres to a standard exemption schedule, it is the policy of the County to favor approval of a corresponding exemption from County real property taxes, subject to the procedures, limitations, and other provisions set forth herein.

3. Standard Exemption Schedule.

- (a) As reflected in the table below, for the tax year immediately following the date upon which the Improvement becomes assessable, one hundred percent (100%) of the assessed valuation of the eligible Improvement shall be exempted. The exempted percentage shall decrease in increments of ten percent (10%) for each year thereafter, and after the tenth year, the exemption shall terminate.

Standard LERTA Exemption Schedule

1st Year	100% Exempted
2nd Year	90% Exempted
3rd Year	80% Exempted
4th Year	70% Exempted
5th Year	60% Exempted
6th Year	50% Exempted
7th Year	40% Exempted
8th Year	30% Exempted
9th Year	20% Exempted
10th Year	10% Exempted
11th Year and thereafter	0% Exempted

- (b) The exemption for the Improvement shall commence on the first day of the quarter immediately following the date on which the Improvement is substantially completed.

4. Qualifications.

- (a) An exemption from County real estate taxes for an Improvement shall not be approved until after the Municipality has, in accordance with 72 P.S. § 4725, established boundaries for a LERTA area which includes the Subject Property, and has exempted the value of the Improvement from taxation by municipal ordinance or resolution.
- (b) The amount to be exempted from County real estate taxes shall be limited to that portion of the additional assessment valuation attributable to the actual costs of the Improvement with respect to the industrial, commercial, or business use of the Subject Property, which is actually incurred by the property owner, and for which a separate tax assessment has been made by the Chief Assessor.
- (c) Residential properties, or residential uses of a mixed-use property, shall not be eligible for exemption from County real estate taxes pursuant to this Resolution. To the extent that a mixed-use development includes a residential component, the assessment attributable to the residential component will not be eligible for the exemption through the LERTA program. This provision shall not preclude the County from adopting other tax incentive or abatement programs for residential development in accordance with applicable law.

- (d) Except as provided in subparagraph (1), the Board will not approve a LERTA application where the exemption schedule approved by the Municipality differs from the Standard Exemption Schedule set forth in Section 3 hereof.
- (1) The Board may approve a different exemption schedule to match a standard exemption schedule, established by a municipality, which applies to all eligible properties within that municipality; however, the Board will not approve any LERTA application in which the duration of the exemption for County taxes exceeds the duration of the exemption for municipal taxes.
- (e) Except for good cause shown, the Board will not approve a LERTA application if the Subject Property is located in an area of the County which has not been designated with a Future Land Use ("FLU") designation of Existing Development, Designated Growth, or Future Growth on the comprehensive plan most recently adopted by the County.
- (f) Any person who is delinquent in payment of taxes or other obligations to the County shall not be eligible to apply for the LERTA program, and a tax delinquency for a Subject Property shall result in its immediate removal from the LERTA program.
- (g) Exemptions from real estate taxes described in this Resolution shall run with the property and shall not be revoked solely because the Subject Property is sold or otherwise conveyed to another party.
- (h) Each exemption from real estate taxes by the County shall be established by a resolution, which shall be substantially consistent with the form attached hereto as Exhibit A, and which shall expire on the last day of the twenty-fourth (24th) month following its adoption.
- (i) A LERTA application shall not be accepted nor approved except upon a certification by the Municipality that all required building permits and land development approvals required for the Improvement have been obtained. No exemption from County real estate taxes will be granted if the Improvement as completed does not comply with the minimum standards of the applicable construction codes, as determined by the Municipality.
- (j) Other than an appeal in accordance with 72 P.S. § 4727, any subsequent appeal taken from the assessed value of a Subject Property shall result in its immediate removal from the LERTA program.

5. Exemption Procedure.

Applicants seeking an exemption from County real estate taxes through the County's LERTA program for an Improvement shall complete the following procedures.

- (a) The Applicant shall submit a LERTA application to the Municipality at the time of securing the building permit in accordance with the forms, fees, and other requirements set by the Municipality.
- (b) Within sixty (60) days after securing the building permit from the Municipality, or within sixty (60) days following passage of this Resolution, if later, the Applicant shall forward to the Director of Community and Economic Development a LERTA program application which shall include the following information:
- (1) Any LERTA application materials and supplemental information submitted to the Municipality;
 - (2) The address(es) and tax parcel identification number(s) of the Subject Property;
 - (3) The current and proposed use(s) of the Subject Property;
 - (4) The cost of the Improvement;

- (5) The date the Municipality approved the building permit for the Improvement;
 - (6) The date the Municipality approved the tax exemption for the Improvement pursuant to its LERTA program, along with a copy of the ordinance, resolution, or other writing evidencing such approval; and
 - (7) Written certification by the Municipality that all applicable fees have been paid, that all required permits and land development approvals have been obtained by the Applicant, and that Applicant is not delinquent on any obligation to local taxing authorities.
- (c) Upon receipt of the materials described in subsection (b) above, the Director of Community and Economic Development shall forward the same to the Board, along with an assessment of whether the LERTA application is consistent with the policies, procedures, and limitations set forth in this Resolution, and any other relevant recommendations or comments.
- (d) Upon receipt of the materials described in this Section, the Board may:
- (1) Hold a public meeting or hearing to consider the LERTA application.
 - (2) Request additional information from the Applicant or Municipality.
 - (3) Approve the LERTA application by a resolution which shall be substantially consistent with the form attached hereto as Exhibit A.
 - (4) Deny the LERTA application and issue a letter to the Applicant, with a copy to the Municipality, stating the reasons therefor.
- (e) Upon approval of a LERTA application by resolution of the Board, the Director of Community and Economic Development shall, within thirty (30) days, provide a copy of the resolution granting approval to:
- (1) The Applicant;
 - (2) Each Municipality and School District in which the Subject Property is located;
 - (3) The Chief County Assessor; and
 - (4) The Berks County Planning Commission.
- (f) If the Improvement has not been completed by the last day of the twenty-fourth (24th) month following adoption of the resolution granting approval of the tax exemption, the resolution will expire unless Applicant obtains an extension by submitting a letter to the Director of Community and Economic Development explaining the reasons why an extension should be granted. The granting of an extension of time shall be at the discretion of the Board.
- (g) The Chief Assessor shall, after completion of the Improvement, assess separately the Improvement and calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established by the authorizing resolution and shall notify the Applicant of the reassessment and amounts of the assessment eligible for exemption from County real estate taxes.

6. Revocation of Exemption.

The exemption from County real estate taxes described herein shall be forfeited by the Applicant and/or any subsequent owner of the real estate, and the Chief Assessor shall discontinue the LERTA exemption, upon the occurrence of:

- (a) Failure to pay any non-exempt real estate taxes by the last day of the time period to pay such taxes in the penalty period.

- (b) An appeal taken from the assessed value of a Subject Property, other than an appeal in accordance with 72 P.S. § 4727.

7. Severability.

The provisions of this Resolution are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses, or sentences.

8. Repeals.

- (a) Resolution No. 189-15 and all resolutions amending Resolution No. 189-15, if any, are or have been specifically repealed as relating to properties seeking an exemption after the effective date of this Resolution.
- (b) Resolution No. 286-12 and all resolutions amending Resolution No. 286-12, if any, are or have been specifically repealed as relating to properties seeking an exemption after the effective date of this Resolution.

9. Effective Date.

This Resolution shall take immediate effect.

10. Expiration Date.

This Resolution shall terminate on December 31, 2027.

11. Notice.

Within thirty (30) days following the passage of this Resolution, the Director of Community and Economic Development shall issue notice of its passage to each Municipality within the County of Berks.

ADOPTED THIS 5TH DAY OF OCTOBER 2023.

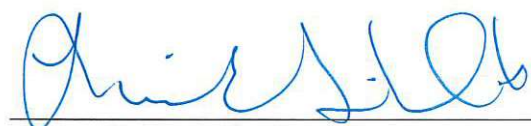
COUNTY OF BERKS


Christian Y. Leinbach, Chair


Michael S. Rivera, Commissioner

Attest:


Carmen Torres, Chief Clerk


Lucine E. Sihelnik, Commissioner