

# **United House of Prayer Real Property Tax Exemption Act of 2011**

**Before the Committee on Finance and Revenue**

**The Honorable Jack Evans, Chairman**

**June 20, 2011, 10:15 AM  
Room 120, John A. Wilson Building**



**Testimony of  
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Good morning Chairman Evans and members of the Committee on Finance and Revenue. I am Bazil Facchina, Assistant General Counsel, for the Office of Tax and Revenue. I am pleased to present testimony on Bill 19-295, the “United House of Prayer Real Property Tax Exemption Act of 2011.”

In general, the Bill would add a new provision to the District’s tax code exempting, effective March 1, 2011, the portions of various properties owned by the United House of Prayer for All People (the Church) that are used for kitchen or feeding facilities for so long as the real property is owned by the Church, a tax-exempt organization, and the remainder of the real property is used for the Church’s tax exempt purposes. The properties listed in the Bill are as follows:

Lot 116, Square 448, located at 601 M Street, N.W.;

Lot 987, Square 5861, located at 1123 Howard Road, S.E.;

Lot 168, Square 1026, located at 1314 H Street, N.E.;

Lot 34, Square 5325, located at 215 51st Street, S.E.; and

Lot 109, Square 442, located at 1717 7th Street, N.W.

The real property tax exemption granted under the Bill would be subject to the provisions of sections 47-1005, 47-1007, and 47-1009, which generally are applicable to exemptions granted by the Office of Tax and Revenue.

The portions of the properties in question are used to operate kitchens and dining facilities. As a general matter, the Office of Tax and Revenue (OTR) taxes real property used by a nonprofit organization to operate dining facilities that are open to the public and operated in a commercial manner. This position is well supported by both the statutes and case law dealing with real property exemptions. For instance, as one court stated, when a nonprofit organization “enters the common business of life and uses its property for the accumulation of money, it should be treated no differently than those regularly engaged in the business.” Howard University v. District of Columbia, 155 F.2d 10, 12 (D.C. Cir. 1946).

Earlier this year, OTR reviewed the operation of the Saint’s Paradise Cafeteria, which the Church operates in its building located at 601 M Street, NW. The cafeteria is open to the public, and it receives substantial public patronage. Signage at its exterior door announces its presence to passersby. This cafeteria is open daily, serving a full menu of breakfast, lunch and dinner items on an eat-in or take-out basis. The cafeteria is operated in order to generate income for the Church, and its manner of operation is indistinguishable from that of a commercial cafeteria facility. By letter dated February 16, 2011, OTR notified the Church of the results of this review and informed the Church that the portion of the property used to operate the cafeteria (representing approximately 6% of the property), would be placed in a taxable status effective March 1, 2011.

OTR subsequently identified a second cafeteria operated by the Church on Howard Road, SE that appeared to be operated in the same manner as the Saint's Paradise Cafeteria. The tax-exempt status of this property is currently under review. This office has also reviewed the 3 other facilities identified in the Bill, but the available information indicates that they may not be operated in the same manner as the Saint's Paradise and Howard Road facilities. To the extent that these facilities are not operated as public cafeterias, OTR generally would not regard them as taxable.

If it is determined that exempting the Church's public dining facilities is good policy, enactment of this Bill is necessary to accomplish that result.

Although the Bill provides that the exemption is to continue while the properties are owned by the Church, record title to the properties is not in the Church's name, but is in the bishop and his successors, as trustee for the Church. I have attached a technical amendment to my testimony to address this potential ambiguity in the Bill.

Thank you, Chairman Evans, for the opportunity to comment on this Bill. I would be happy to answer any questions at this time.

## Attachment

On page 2, line 24, insert after the phrase “a tax exempt organization” the phrase “or its bishop as trustee for the organization,”.