

# **PUBLIC HEARING**

**ON**

## **Bill 19-280 “Streetscape Corridor Taxation Relief Act of 2011”**

**Before the  
Committee on Finance and Revenue**

**The Honorable Jack Evans, Chairman**

**November 16, 2011, 11:00 AM  
John A. Wilson Building, Room 412**



**Testimony of  
Bazil Facchina  
Assistant General Counsel  
Office of Tax and Revenue**

**Natwar M. Gandhi  
Chief Financial Officer  
Government of the District of Columbia**

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 19-280, the “Streetscape Corridor Taxation Relief Act of 2011.”

In general, the Bill would amend the District’s tax law to direct the waiver of penalties and interest accrued for real property taxes on commercial buildings located along corridors that were directly affected by streetscape projects, provided that the property or business owner can demonstrate that the streetscape project resulted in a loss of revenue creating the delay in timely tax payment and provided further, that the building was not in property tax class 4 during the period in question.

The provisions of the Bill dealing with the circumstances in which penalties and interest are to be waived are framed in fairly broad and general terms that appear to create a number of issues with the administration and implementation of this relief.

From the tax administrator’s perspective, it would be best if another agency, such as the District Department of Transportation or Deputy Mayor for Planning and Economic Development were directed to certify to the Office of Tax and Revenue the properties and periods for which the penalty and interest is to be waived. If that is not feasible, waiver of penalties and interest should be made discretionary,

rather than mandatory, in order to allow OTR flexibility in considering each taxpayer's circumstances and the substantiation of adverse consequences resulting from streetscape projects.

As currently drafted, the Bill may impose a standard of proof and substantiation requirements that may be burdensome and difficult for taxpayers to meet. The Bill requires that a taxpayer demonstrate that inability to pay was due to a revenue loss resulting from streetscape construction. While it may be reasonable to infer that a business experiences a decrease in revenue as a result of streetscape construction, it may be challenging for a taxpayer to prove that streetscape construction, instead of some other circumstance, is the actual cause of a drop in revenue. As presently drafted, the taxpayer would probably be required to present detailed financial information for OTR to review. Moreover, a property owner might also be asked to show that it did not pay other creditors before it paid its property taxes in order to demonstrate that it was unable to pay those taxes.

Additionally, the areas affected by streetscape construction should be more precisely defined to facilitate administration of the relief. The Bill should clarify whether only properties fronting on blocks that are under construction are eligible, or whether properties on adjacent blocks are also included. The period for which

properties are eligible for relief should also be specified, as currently the Bill may be read to allow relief for periods before and after the actual construction period.

To address these and other technical issues, I have attached to my testimony some suggested language which has been drawn from prior streetscape relief bills.

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

## Attachment

Page 1, line 25, strike the existing text following “Sec. 2.” And replace it with “Section 47-811.04 is amended by adding at the end thereof a new subsection (3) to read as follows:

Page 1, Line 27, strike “(a)” and replace it with “(3)”.

Page 1, line 28, strike the word “buildings” and substitute “property”.

Page 1, line 28, strike the phrase “located along corridors that were” and insert the phrase “located along corridors designated by the District Department of Transportation as being”.

Page 1, line 30, strike “(1)” and replace it with “(A)”.

Page 1, line 31, add after the phrase “timely tax payment” the phrase “, and such revenue loss may be demonstrated by comparing gross receipts from the property, as calculated for District income or franchise tax purposes, for the applicant’s tax year immediately preceding the year in which streetscape construction commenced with such gross receipts from the property for the applicant’s tax year for which the waiver of penalty and interest is sought”.