

PUBLIC HEARING

ON

Bill 19-279 “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008 Clarification Amendment Act of 2011”

**Before the
Committee on Finance and Revenue**

**Council of the District of Columbia
Councilmember Jack Evans, Chairman**

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



**Testimony of
John Ross
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For Economic Development Finance**

**Natwar M. Gandhi
Chief Financial Officer
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Good morning, Chairman Evans and members of the Committee on Finance and Revenue. I am John Ross, Senior Advisor to the Chief Financial Officer for Economic Development Finance. I am pleased to testify today on behalf of the CFO on the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008 Clarification Amendment Act of 2011.”

The proposed legislation would make the rebuilt Safeway supermarket located at M and 4th Street SW (Southwest Safeway) eligible for benefits received by other supermarkets pursuant to the Supermarket Tax Exemption Act of 2000 (Supermarket Act).¹ Under the Supermarket Act, all new and rebuilt supermarkets in designated priority development areas can receive a 10-year exemption from real property tax, personal property tax, sales tax on construction materials, and license fees. The Supermarket Act was intended to encourage supermarkets to locate in underserved areas of the District of Columbia.

¹ In 2010, Safeway applied for an exemption under the Supermarket Act for its Southwest store located at 1100 4th Street, SW (Southwest Safeway). The application was not accepted by the Office of the Deputy Mayor for Planning and Economic Development because the Southwest Safeway was not located in a “priority development area” as defined under the law at the time of the application.

The proposed legislation would amend the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008 (Reorganization Act) to modify the definition of priority development area to make the tax and fee exemptions applicable for the Southwest Safeway.

The definition of priority development area was originally included in the National Capital Revitalization Act of 1998 (NCRC Act). At the time that the Council passed the NCRC Act, the definition of priority development area included the area where the Southwest Safeway is located. However, this area was removed from the definition of priority development area when the Council passed the Anacostia Waterfront Corporation Act of 2004. Therefore, in 2004, the Southwest Safeway location was no longer included in the definition of priority development area. Furthermore, when the Council passed the Reorganization Act in 2008 and transferred the definition of priority development area to the Supermarket Act, the area in which the Southwest Safeway is located was not included. The proposed legislation would alter the definition of priority development area (now found in the Supermarket Act) to include the area in Square 542 bounded by M, I, 3rd and 6th Streets SW.

The implementation of the proposed legislation would cause the general fund to forego revenues it has collected and will collect. As a result, we expect that funds will not be sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the proposed legislation. However, it is our understanding that the Council plans to change language in the legislation. Therefore, the Office of the Chief Financial Officer (OCFO) will not issue a fiscal impact statement until the new language has been added.

Because of the way that the law is written, the OCFO recommends that additional changes be made to the Supermarket Act. These changes are necessary because the ownership of the Southwest Safeway changed in May 2011 (Please see the appendix for additional information). The Office of Tax and Revenue would be happy to work with Council staff to clarify any necessary changes.

Thank you for the opportunity to testify. I am happy to answer any questions at this time.

Appendix

There has been a change of ownership of the property in which the Southwest Safeway is located. On May 11, 2011, the property was conveyed from Waterfront Associates, LLC to USGBF Waterfront Station, LLC.

The original application for exemption was filed by Waterfront Associates, and any exemption for the property would be granted on the basis of its application and ownership. Under applicable law, an existing exemption generally terminates when ownership of property changes, and so any exemption granted to Waterfront Associates would terminate with the transfer.

Therefore, a new exemption application would be required from the new owner, USGBF, in order to receive an exemption.

This affects the amendment to the definition of priority development area in two ways. First, in order for the exemption to be available for the period covered by the initial application, which was filed by Waterfront Associates, the version of section 47-3801(1A) enacted in 2008 would have to be amended to include the Southwest Safeway property. The amendment would have to take effect as if it had been included in the amending legislation as originally enacted in order to give it appropriate retroactive effect.

Second, the current version of the Supermarket Act, which was enacted as L18-353, would need to be amended to include Southwest Safeway property. USGBF's application would be filed with the Office of the Deputy Mayor for Planning and Economic Development, and would be evaluated under this law. The bill would have to provide that the amendment would apply as if it had been included in L18-353 as originally enacted in order to cover the period of USGBF's ownership.