Government of the District of Columbia
Office of the Chief Financial Officer

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TAX ABATEMENT FINANCIAL ANALYSIS

TO:	**The Honorable Muriel Bowser** **Mayor, District of Columbia** **The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Fitzroy Lee** **Acting Chief Financial Officer**
DATE:	**February 18, 2022**
SUBJECT:	**Tax Abatement Financial Analysis- "Affordable Housing Opportunities, Inc. Tax Abatement Act of 2021"**
REFERENCE:	**B24-0453**

Findings

Bill 24-0453 as introduced (Bill) amends the District of Columbia Official Code to provide retroactive forgiveness and prospective exemptions for real property, deed recordation and transfer taxes with respect to Lots 2003 and 2004 in Square 5139, owned by Benning Healthcare, LLC (Healthcare) and Benning Programs, LLC (Programs), respectively. Healthcare and Programs are controlled by Affordable Housing Opportunities, Inc. (AHO), which is wholly controlled by SOME, Inc. (SOME). These four entities are collectively referred to as the Applicant. The tax relief proposed in the Bill is financially necessary, as Healthcare and Programs cannot reasonably meet their fiscal needs without the prospective and retroactive exemption.

The Applicant has submitted a proposed substitute to the Bill that would extend the Bill's exemption to an additional property, Lot 2005 in Square 5139, owned by AHO, in the same development project, as well as to provide more comprehensive tax forgiveness with respect to these properties. The tax relief for Lot 2005 is not financially necessary. The relatively small amount of past year and annual tax liability will not significantly change the level of expenses borne by AHO and its parent entity, SOME, and to be paid from the resources available to these entities.

Please refer to the separate Fiscal Impact Statement for the effect of the proposed legislation on the District's financial plan.

Background

Lots 2003, 2004 and 2005 in Square 5139 are part of the Conway Center development project located at 4414-4430 Benning Road, NE in the Benning Heights neighborhood of Ward 7. The Conway Center was designed to comprehensively serve community needs by combining affordable housing, job training and healthcare in a single location. The project was developed by SOME, a not-for-profit organization that serves DC residents experiencing poverty and homelessness, and AHO, a not-for profit housing developer wholly controlled by SOME. The Conway Center project was structured so that the distinct components of the real estate development are owned, used and financed under separate entities. The residential portion of the project, owned by Benning Residential LLC (Residential), occupies Lots 2001 and 2002 in Square 5139 and was financed, in part, using Low Income Housing Tax Credits (LIHTCs). As explained below, it is exempt and so is not included in the Bill. Healthcare owns Lot 2003 in Square 5139 and leases the space to Unity Healthcare to operate the on-site healthcare services. Programs, owner of Lot 2004 in Square 5139, leases the space to the Center for Employment Training, a component program of SOME, to provide employment training programs. The components of the project owned by Healthcare and Programs were partially funded with New Markets Tax Credits funding. In addition, the Conway Center includes Lot 2005 in Square 5139, a space owned by AHO and occupied by SOME behavioral health services and administrative space.

The Applicant submitted applications for exemption from real property tax for Lots 2003, 2004 and 2005,[1] which were denied by the OCFO's Office of Tax and Revenue (OTR) because they did not meet the requirements for an administrative exemption. For instance, Healthcare and Programs are for-profit entities, and so could not receive administrative tax exemptions.[2] The portion of the Conway Center owned by Residential (Lots 2001 and 2002) is tax-exempt pursuant to a certification from the Department of Housing and Community Development and so does not need special legislative relief. Accordingly, this portion of the project is not included in the Bill.

Financial Analysis

The Exemptions and Abatements Information Requirements Act of 2011 requires the analysis provided by the Office of the Chief Financial Officer (OCFO) to contain certain information. The required information is included below.

(A) Terms of the Abatement

The Bill provides exemption from, and forgiveness of, real property, deed recordation, and transfer taxes with respect to Lots 2003 and 2004 in Square 5139. Generally, The Bill will forgive real property, recordation, and transfer taxes incurred before FY2022 and exempt the properties from FY2022 on, as long as the properties are owned by AHO or an entity controlled by AHO. The Applicant's proposed substitute bill generally provides the same exemption terms as the Bill but includes an additional lot, Lot 2005 in Square 5139, to the property to be exempted, as well as more

[1] The applications for lots 2003 and 2004 included predecessor lots 7000,7001,7003, 7004, 7005, 7007, 7010, 7012, 808 and 809, which were owned by the Applicant.

[2] A November 25, 2020 letter from OTR denied the tax exemption for Lot 2003 and 2004 (and predecessor lots), and a December 22, 2020 letter from OTR denied the tax exemption for Lot 2005.

comprehensive recordation and transfer tax relief. Technical clarifications in the substitute include a clearer listing of tax lots (to identify predecessor lots) entitled to relief and a clearer specification of recorded documents for which transfer and recordation taxes are to be forgiven. These technical clarifications will facilitate administration of this tax relief. The proposed substitute is included as Appendix A.

(B) Value of the Abatement

As shown in Table 1, the Bill's proposed tax relief for Lots 2003 and 2004 is valued at approximately $12,534,000 through FY 2049, including the tax liability for previous fiscal years.[3] The estimated value through the financial plan period is $2,429,000.

Table 1: Estimated Value of the Proposed Tax Abatement (Lot 2003 and 2004)

Exemption	Prior to FY 2022	FY 2022	FY 2023	FY 2024	FY 2025	Total Through FY25	Total FY26-49	Total Value
Real Property Tax	$1,183,000	$264,000	$264,000	$269,000	$277,000	$2,257,000	$10,105,000	$12,362,000
Recordation and Transfer Tax	$172,000					$172,000		$172,000
Total	$1,355,000	$264,000	$264,000	$269,000	$277,000	$2,429,000	$10,105,000	**$12,534,000**

Additionally, tax relief for the additional property, Lot 2005, proposed in the Applicant's substitute bill, is provided below. The addition of Lot 2005 adds $242,000 to the estimated value of the relief, including an additional $46,000 during the financial plan period.

Table 2: Estimated Value of the Proposed Tax Abatement (Lot 2005)

Exemption	Prior to FY 2022	FY 2022	FY 2023	FY 2024	FY 2025	Total Through FY25	Total FY26-49	Total Value
Real Property Tax	$24,000	$5,000	$5,000	$5,000	$6,000	$45,000	$196,000	$241,000
Recordation and Transfer Tax	$1,000					$1,000		$1,000
Total	$25,000	$5,000	$5,000	$5,000	$6,000	$46,000	$196,000	**$242,000**

(C) Purpose of the Abatement

The proposed exemption will provide the Applicant with tax relief that is unavailable through administrative means.

[3] Penalties and interest on prior year tax liabilities are included as of the date of the analysis. Penalties and interest may increase in the future while the tax payments are outstanding.

(D) Summary of the Proposed Community Benefits

The community benefits provided by the Applicant are provided in Appendix B.

(E) Financial Analysis and Advisory Opinion

The OCFO's Office of Finance and Treasury (OFT) evaluated the Applicant's 2019 and 2020 audited financial statements for SOME, Inc., and unaudited financial statements for Healthcare and Programs from 2019 through August 2021.[4] The Applicant also provided additional documentation requested by OFT that discussed the financial condition of Programs, Healthcare and AHO. OFT's findings, below, separately evaluate the property in the Bill, Lots 2003 and 2004 owned by Healthcare and Programs, respectively, and the additional property included in the Applicant's substitute bill, Lot 2005 owned by AHO.

Lot 2003 and 2004

Back taxes owed for years prior to the current fiscal year total approximately $1,355,000. Annual real property taxes are $263,801 for the current fiscal year and are projected to increase over time.[5] SOME structured the finances of Healthcare and Programs as real estate-owning entities that pay operating expenses and debt service with rent revenue. The inclusion of real property taxes as part of operating expenses was not contemplated. Income and expense statements show that both Healthcare and Programs have been operating at a near break-even level, or at a loss, since 2019.[6] The Applicant anticipates no significant changes to the income and expense profile of Healthcare and Programs in future years. Therefore, these entities cannot reasonably be expected to meet their fiscal needs without the proposed retroactive and prospective exemption.[7]

Lot 2005

In comparison, the tax liability for Lot 2005 is relatively small, with real property and recordation tax liability from previous fiscal years totaling approximately $24,900; annual real property tax liability in FY22 is estimated at $5,270 and is expected to increase over time. The property is owned by AHO, which is wholly controlled by SOME. Based on SOME's audited financial statements, the housing program's expenses are sufficiently large to be able to incorporate the additional one-time and annual expense without financial hardship. The past year tax liability will equal approximately 0.1 percent of the housing program's 2020 expenses and the annual tax liability equaling 0.02 percent.

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[4] Audited financial statements for SOME are consolidated to include component entities that it controls, including AHO, Healthcare and Programs. The financial statements include breakouts by functional areas, including housing, healthcare and education. Additionally, the Applicant provided unaudited financial statements for Healthcare and Programs LLCs.

[5] Annual real property tax liability for FY 2022 is $128,213 for Healthcare and $135,588 for Programs.

[6] OFT's calculations of funds available to pay taxes exclude depreciation, which is a non-cash expense shown on the income and expense statements.

[7] Unity Healthcare and Center for Employment Training, as lessees of the property on Lots 2003 and 2004, respectively, could potentially be liable for the taxes under the lease, but according to the Applicant, neither entity anticipated payment of real property taxes under their lease obligations. Center for Employment Training, a program controlled by SOME, also operates at a loss.

Conclusion

The Bill proposes retroactive forgiveness and prospective exemption of real property, deed recordation and transfer taxes for property comprising a portion of the Conway Center project. The Bill's proposed tax relief, for the property designated as Square 5139, Lots 2003 and 2004, and owned by Healthcare and Programs, respectively, is financially necessary. These entities would operate at significant cash flow deficits without the retroactive and prospective exemption based on their existing and expected future income and expenses.

The Applicant has proposed that the real property, deed recordation and transfer tax relief include one additional property that is part of the Conway Center Project, designated as Square 5139, Lot 2005, and owned by AHO. The exemption on this property is not financially necessary. Due to their relatively small amount, the past year and annual tax liabilities will not significantly impact or change the level of expenses borne by AHO and its parent entity, SOME, from the resources available to these entities.

Appendix A

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt and forgive real property, recordation, and transfer taxes for property owned by SOME, Inc., and Affiliates in Lots 808, 809, 7000, 7001, 7003, 7004, 7005, 7007, 7010, and 7012, in Square 5139, and Lots 2003, 2004, and 2005, in Square 5139.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "SOME, Inc., and Affiliates Conway Center Tax Exemption and Equitable Tax Relief Act of 2021."

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended by amending Section 47-1078(a)(2) as follows:

(a) Subparagraph (J) is amended by striking the word "and" at the end thereof;

(b) Subparagraph (K) is amended by striking the period at the end thereof and inserting a semicolon in its place.

(c) New subparagraphs (L) and (M) are added to read as follows: "(L) Lots 808, 809, 7000, 7001, 7003, 7004, 7005, 7007, 7010, and 7012, Square 5139, located at 4414 and 4430 Benning Road, NE, effective November 1, 2015; and

"(M) Lots 2003, 2004 and 2005, Square 5139, located at 4414, 4420 and 4430 Benning Road, NE, effective October 1, 2018.

Sec. 3. Forgiveness of Recordation and Transfer Tax.

The Council orders that all recordation and transfer taxes, interest, and penalties assessed or assessable, and other tax-related charges assessed with respect to documents recorded concerning the real property described in Section 2 for the period beginning with October 28, 2015, through the end of the month following the effective date of this act, including document numbers 2015110106, 2015110107, 2015110108, 2015110109, 2015110119, 2015110130, 2015110133, 2015110134, 2015110137, 2018054086, 2018054087, 2018054090, 2018066828, 2018066829, and 2018066830, shall be forgiven, and any payments made of such taxes, interest, penalties, or other tax-related charges shall be refunded.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement as the fiscal impact statement in the committee report as required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect upon its approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c) (1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Appendix B

Summary of Community Benefits Provided by Applicant

SOME's Conway Center

SOME's Conway Center, at 4430 Benning Road NE, is our most innovative project dedicated to creating opportunities and pathways to success for our community's most vulnerable. The Conway Center, located directly across from the Benning Road Metro Station, is in the heart of the Benning Heights neighborhood and is the first facility in the District to combine affordable housing, job training, and healthcare in a single location.

The seven-story LEED-certified building features 30 units of Affordable Housing for families and 152 units for single adults, including 16 units designated for seniors; Job Training for up to 300 low-income job seekers, annually, at SOME's Center for Employment Training (SOME CET); and Healthcare for 10,000 patients each year through a partnership with Unity Health Care. SOME also offers much needed case management services and therapy in our Behavioral Health Clinic at the Conway Center. Additionally, the Conway Center includes our 90-day transitional housing program for people in our Substance Use Disorder continuum. Finally, SOME has office space for our Finance, Property Management, Facilities Management, Human Resources and Program Administrative staff at the Conway Center.

The Need

Vanishing affordable housing and high unemployment have trapped approximately 95,000 adults and children in the District in poverty. Over 5,000 of them are experiencing homelessness, living on the streets, in crowded institutions, in motels, and in other demoralizing and dangerous circumstances. They are on the front lines of an affordable housing crisis that is making it increasingly difficult for vulnerable individuals and families to gain a foothold in stabilizing their lives. This crisis has only been exacerbated by the COVID-19 pandemic, which has caused unemployment to soar and food insecurity to rise. Each time that SOME advertises availability in one of our housing facilities, we receive more than 400 inquiries per day from families and individuals who are desperate for a safe and stable place to live.

The Conway Center's Impact

At SOME's Conway Center, we are creating a unique opportunity for District residents experiencing homelessness and poverty to become self-sufficient through integrated housing, job training, and healthcare. At the heart of our work is the belief that individuals and families in crisis must have access to services and resources to help them build on their inherent strengths and develop self-sufficiency. Dignified, affordable housing is a platform for services that create opportunities for life-long success.

Housing

SOME is redefining affordable housing by creating a stable foundation where our residents can explore their potential, supported by practical resident programs such as financial education, employment initiatives, parenting classes, and after-school programs for children. Residents typically pay no more than 30% of their income as rent and agree to follow a set of Community Guidelines in order to maintain a healthy, positive, and drug- and alcohol-free environment for all residents. Affordable housing also yields significant public savings. With a stable home and accessible healthcare, individuals and families no longer need to rely on emergency rooms, shelters, and other costly institutions to meet their fundamental needs.

Job Training

SOME's Center for Employment Training, our highly successful job training program, has been in operation for over 20 years and offers hard and soft skill training for living-wage careers in the high-demand industries of healthcare and the building trades. CET also offers basic education and job placement services. Thanks to its new, expanded space at the Conway Center, CET can serve 300 students per year, doubling its previous capacity.

The Conway Center is in Ward 7, which has the second highest unemployment rate in the city (13.1% in 2020). CET students qualify for, obtain, and keep good jobs that reward work with family-sustaining income, benefits, stability, and career advancement. In 2020, the average wage for a CET graduate was over $17 per hour.

Healthcare

The East of the River Clinic greatly expands access to medical services for local residents who normally travel outside of their community for specialty care. The clinic, operated by Unity Health Care, provides a full range of high-quality health services for approximately 10,000 people a year, including primary care, dental care, and family medicine. Specialty services, provided by Howard University Hospital, include high-risk obstetrics, oncology, radiology, ophthalmology, and orthopedics. SOME's on-site behavioral health clinic offers mental health services, with a focus on supporting those who have experienced trauma due to domestic violence, incarceration, or being the survivor of crime.

The Building

Our inspiring new LEED-certified building transformed a neglected intersection into a vibrant community hub. The Conway Center is a part of the community's revitalization, transforming a blighted property into a hub of positive activity and opportunity.