

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



Jeffrey S. DeWitt
Chief Financial Officer

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: Jeffrey S. DeWitt
Chief Financial Officer

DATE: May 15, 2015

SUBJECT: "Florida Avenue Performing Arts Transfer Tax Relief Act of 2015"

REFERENCE: Bill 21-140

Findings

The proposed bill, Bill 21-140, the Florida Avenue Performing Arts Transfer Tax Relief Act of 2015 ("Act") would refund \$65,250 in transfer taxes to support Capital Fringe, Inc. with their \$7.0 million purchase and renovation of property at 1358 Florida Avenue, NE. The Office of Economic Development Finance (EDF) has determined that the proposed payment is not necessary for the continued operations of Capital Fringe or the property purchase and renovation.

Background

Capital Fringe is a 501(c)(3) non-profit performing arts organization whose mission is "Connecting exploratory artists with adventurous audiences by creating outlets and spaces for creative, cutting-edge, and contemporary performance in the Washington, DC Metropolitan area."¹

On October 6, 2014, Capital Fringe purchased a commercial building from Conner Smith, LLC for \$4.5 million. The payment included a down payment of \$1.95 million from Capital Fringe and an interest-only loan from the seller for the remaining \$2.55 million. As of May 2015, the principal balance of the loan is \$2.2 million, which is due in two separate principal payments of \$150,000 in August of 2015 and \$2.05 million in January of 2017. Capital Fringe has relocated to the new building, and is currently operating there.

Property transactions in the District are subject to a 1.45% deed recordation tax paid by the buyer, and a 1.45% transfer tax paid by the seller. As a 501(c)(3) non-profit organization which serves the

¹ Mission statement from www.capitalfringe.org/about

local community, Capital Fringe was exempt from paying deed recordation tax. Conner Smith, LLC, a for-profit art gallery, paid \$65,250 in transfer taxes.

The Act, as currently drafted, states “all transfer taxes . . . be forgiven, and that any payments made be paid to Capital Fringe, Inc.” (Section 2). This flow of funds is not tax relief because it does not refund taxes to the party who paid them; instead, this structure more closely resembles a grant. EDF has been informed that the bill will be amended to clarify that the Act would refund the taxes to Conner Smith, LLC; then by a separate letter agreement (Appendix B), Conner Smith, LLC would apply the \$65,250 refund towards the principal balance of their loan to Capital Fringe.

Capital Fringe also intends to renovate the property in a second phase, with \$2.5 million in improvements to include additional theaters and a bar. At a total project cost of \$7.0 million, including both the purchase and phase two improvements, the proposed one-time \$65,250 financial benefit to Capital Fringe represents less than 1% of project costs. Capital Fringe is currently raising funds through donations to cover the total \$7.0 million project cost.

Financial Analysis

The Exemptions and Abatements Information Requirements Act of 2011 requires the analysis provided by EDF to contain certain information. The required information is included below. A separate fiscal impact statement was prepared by the Office of Revenue Analysis on the proposed legislation.

Terms of the Exemption or Abatement

The proposed legislation would forgive all transfer taxes, penalties, interest, fees, and other charges associated with Capital Fringe’s purchase of 1358 Florida Ave, NE.

1. Annual Proposed Value of the Exemption or Abatement

The value of the proposed tax relief is a one-time benefit to Capital Fringe of \$62,650 in 2017 because Conner Smith, LLC would credit the value of the tax refund towards the balloon payment due in 2017. Note the budget impact of the proposed relief would occur upon the Act’s effective date.

2. Summary of the Proposed Community Benefits

A summary of the proposed community benefits as submitted by Capital Fringe is attached to this analysis as Appendix A.

3. Financial Analysis

The proposed abatement is not necessary to support Capital Fringe or their new building project. The \$4.5 million property purchase occurred without the proposed funding. Capital Fringe is in the middle of a capital campaign to complete a \$2.5 million renovation. Capital Fringe is a financially healthy non-profit. There is no evidence that it will not be successful in its current capital campaign. Should Council approve the proposed \$65,250 tax refund to the owner, it would effectively be a grant to Capital Fringe towards its capital campaign.

APPENDIX A

Summary of Community Benefits as submitted by Capital Fringe

Fringe is a 501(c)(3) nonprofit organization whose purpose is to infuse energy into performing arts in the Washington, DC region through an annual summer Fringe Festival and a year-round Fringe Training Factory. Fringe’s mission is to connect exploratory artists with adventurous audiences by creating outlets and spaces for creative, cutting-edge, and contemporary performance in the District. Fringe’s vital programs ensure the growth and continued health of the local and regional performing arts community by helping artists become independent producers while stimulating the vibrant cultural landscape in our city.

The primary program of Fringe is the annual summer Festival, the only major unjuried, self-producing performance Festival in the Washington, DC area. Coinciding with the inaugural Festival in 2006, Fringe launched its yearlong Training Factory program. The Factory supports the development of emerging artists and companies in the Washington, DC area. It is both a forum for learning and a playground for artists to explore their craft in a creative, supportive and instructive setting. Throughout the year and during the annual summer Festival, Fringe offers the Performing Arts Workshop Series to foster the growth of participating artists and those who have yet to participate with Fringe. Taught by the Fringe staff, various consultants and artists from the DC area and beyond, the workshops are tailored around questions that arise in the art making and producing of independent performance. In addition to facilitating artistic growth through the sharing of skills and ideas, Fringe offers accessible performance, rehearsal and scene shop space for local artists in the DC area. We guide each individual artist or company through the marketing, PR, and production process of their show. The goal is to liberate self-producing artists and to give them a tool kit that will enable them to communicate their ideas and projects to the media, producers and general public.

While Fringe makes a wide variety of contributions to the District’s artistic community each year, Fringe’s greatest impact is its ongoing role as a launching pad and incubator for local artistic talent. For many young companies finding an affordable space, production resources and a willing audience to experience their work, often proves to be an insurmountable challenge. Fringe provides the venue, the administrative infrastructure and adventurous audiences, willing to check out a new artist or performance group. By nurturing artists and providing them with a new artistic home, Fringe will continue to increase the level of artistic quality in the city and has grown the pool of talent in the District significantly.

The District has estimated that estimated net tax contribution of Fringe over a 10-year period is \$1.6 million.² That estimate was based on Fringe’s previous scope since its inaugural Festival in 2006, which will continue upon completion of our Phase One renovation that is currently in progress.

² See Creative Economy Strategy for the District of Columbia, July 2014, at page 75 (Example 1 is Fringe). http://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Creative%20Economy%20Strategy%20of%20the%20District%20of%20Columbia%20Full%20Report_0626.pdf

In addition, the relocation and development project will extend and increase these public benefits. Upon completion of our Phase Two renovation plan, Fringe’s home will feature three black box theaters, a scene shop, art gallery/event space and a beer garden/café. It will be a year-round operation that serves the local community, further incubates early stage artists and allows for creative endeavors to germinate and grow within the District. The space will enable Fringe to continue to add to the District’s cultural landscape -- as we did in our downtown location at 607 New York Avenue, NW -- but with the certainty that a permanent home will bring to artists looking to push the boundaries of expression and audiences seeking unprocessed entertainment.

Fringe has provided and will continue to provide jobs through the annual summer Festival and year-round activities, we do not have an estimate of the number of additional jobs that result from Fringe’s expanded operations upon completion of our renovation and expansion. However, the budgeted hard costs for our development project are roughly \$2,500,000, which will obviously support many construction jobs during the development period.

APPENDIX B

Letter Agreement Between Conner Smith, LLC and Capital Fringe, Inc.

CONNER SMITH, LLC

November 12, 2014

Capital Fringe, Inc.
1358 Florida Avenue, N.E.
Washington, D.C. 20001

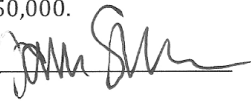
Re: Transfer Tax Rebate

Ladies and Gentlemen:

This letter confirms the agreement by Conner Smith, LLC (“**CSL**”) relating to a proposed rebate of District of Columbia transfer taxes. On October 6, 2014, CSL closed on the sale of real property known as 1358 and 1360 Florida Avenue, N.E. in Washington, D.C. (Lots 0830, 0120 and 0121 in Square 4068) to Capital Fringe, Inc. (“**Capital Fringe**”). At the time of the sale, CSL paid District of Columbia transfer taxes in the amount of \$65,250 as required by applicable law and the purchase agreement. At the time of the sale, a portion of the purchase price was paid by Capital Fringe to CSL in the form of a purchase money note for \$2,550,000.

We understand that the District of Columbia Council is considering a bill that would abate and refund the transfer taxes for the purpose of supporting Capital Fringe’s activities as a nonprofit performing arts organization. We further understand that it is more convenient for the District government to structure this assistance as a rebate of the taxes directly to CSL, since CSL paid the same, even though the intended beneficiary of the rebate is Capital Fringe.

CSL agrees that upon receipt prior to January 1, 2015 of any rebate for those transfer taxes it will either endorse the check to Capital Fringe or forthwith issue a check to Capital Fringe for the amount of the rebate so that the full benefit of the rebate will go to Capital Fringe and not CSL. Any time after January 1, 2015 Capital Fringe may make a one-time prepayment on the principal of the purchase money note in the amount of the rebate. If the rebate or the prepayment equal to the rebate is received after January 1, 2015 but prior to February 15, 2015, the \$500,000 curtailment due on that date will be reduced by the amount of the rebate or prepayment. Amounts received after February 15, 2015 will be applied against the then outstanding principal balance of the note. The prepayment arising out of the rebate is a one-time waiver of the requirement that principal payments not be less than \$250,000.

Sincerely, 
Jamie Smith
On behalf of Conner Smith, LLC