

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



Natwar M. Gandhi
Chief Financial Officer

TAX ABATEMENT FINANCIAL ANALYSIS

TO: The Honorable Vincent C. Gray
Mayor, District of Columbia

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

A handwritten signature in black ink, appearing to read 'N. Gandhi', written over a white background.

DATE: January 28, 2013

SUBJECT: "Bryant Mews Homeowner's Association Equitable Real Property Tax Relief Act of 2012"

REFERENCE: Bill 19-708

Findings

The tax abatement proposed by Bill 19-708, which totals approximately \$67,000, is necessary to ensure the Bryant Park Homeowners Association ("Association") is provided appropriate relief of real property taxes on certain lots it owns. The tax abatement value is comprised of \$18,000 of forgiveness regarding unpaid bills and \$49,000 of payments due to tax lien purchasers. The Office of Tax and Revenue (OTR) had been assessing and billing the property based on a commercial rather than residential use classification. Once contacted about the problem in 2011, OTR forgave taxes to the extent provided for under the D.C. Code, but OTR is not authorized to provide further relief.

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

Background

The Bill would provide an abatement of all real property taxes, interest, penalties, fees, and other related charges assessed against two parking lots located in Square 4112, Lots 858 and 859 (the "Property"), as owned by the Bryant Mews Homeowners Association, for Tax Year 1989 through and including Tax Year 2007. The bill also orders the cancellation of all tax sales of the Property conducted under Chapter 13A of Title 47 of the D.C. Official Code before the issuance of a final order by the Superior Court and to pay to the tax lien purchaser the amount which the purchaser would have received if the real property had been redeemed pursuant to D.C. Official Code § 47-1366.

The Property for which the abatement is proposed is located in the 1800 block of Bryant Street and Channing Streets, NE in the Woodridge neighborhood of Ward 5. The Property, which has a total land area of 18,798 square feet, provides off-street parking for the 48 townhouse units in the Bryant Mews development, which was completed in 1988. The developer transferred ownership of the Property to the Bryant Mews Homeowners Association in December 1988. The Bryant Park Homeowners Association was formed on May 20, 1992 and is the successor to the Bryant Mews Homeowners Association. OTR has assessed property taxes on the Property since 1989, but has not received payments from the owner. The Bryant Park Homeowners Association has stated that it never received property tax bills for the Property.

The Homeowners Association contacted OTR in 2011 and at that time OTR revised the property classifications from commercial to residential (resulting in a revised billing rate of \$0.85/\$100 as opposed to \$1.65/\$100), and OTR also revised the assessed value of the property. D.C. Code allows OTR to administratively change an assessment or real property classification which is the result of a substantial error that would cause an injustice to the owner for the immediately succeeding, current, or proceeding 3 tax years¹. However OTR cannot make such adjustments for earlier years. Consequently, annual taxes due on the property were reduced to \$17 for Tax Years 2008 and forward, but remain about \$10,200 for Tax Years 2007 and 2006. Penalties and interest have also accrued on those amounts, and because tax liens for Tax Years 2006 and 2007 were sold to buyers, legal fees must also be paid. The length of time that has passed since the tax sale purchases has resulted in such purchasers filing a *lis pendens* (notice of pending action) for a tax sale foreclosure in the District of Columbia Superior Court.

Financial Analysis

Pursuant to the Exemptions and Abatements Information Requirements Act of 2011, the TAFA, as compiled by the Office of Economic Development Finance (EDF) of the Office of the Chief Financial Officer, contains certain information. The required information is included below.

Terms of the Exemption or Abatement

The legislation would forgive all real property taxes, interest, penalties, fees, and other related charges assessed against the Property for Tax Year 1989 through and including Tax Year 2007.

Annual Proposed Value of the Exemption or Abatement

The proposed abatement has a one-time value of approximately \$67,000. Taxes, penalties and interest total \$52,800 and attorneys’ fees associated with tax sales are estimated to total \$14,200. The abatement does not apply to Tax Years 2008 through 2012 and has no annual value going forward.

Summary of the Proposed Community Benefits

The property owner has not provided a summary of the proposed community benefits to EDF.

¹ See D.C. Official Code §47-825.01a(f)(2).

Financial Analysis for Existing Buildings

Because the purpose of the proposed legislation is to provide a means of addressing assessment errors that cannot be corrected by OTR due to a statute of limitations, EDF finds the proposed abatement necessary regardless of the financial condition of the Association. However, EDF did review budgets and financial statements provided by the Association and determined that the Association does not have sufficient funds on hand to pay the pre-2008 outstanding tax bills and attorney fees of the lien purchasers.

EDF’s analysis did not include an analysis of the financial situations of the individual homeowners. Raising funds from such homeowners may be difficult for the Association regardless of the homeowners’ ability to pay. Association financial statements show that a substantial portion of regular residential assessments went unpaid in 2011. Additionally, the Association points to objections raised by current homeowners to paying property taxes that were assessed before they bought a townhouse in the Bryant Park development.