

PUBLIC HEARING ON
“FREEDOM FORUM, INC. PAYMENT IN LIEU OF
TAXES ESTABLISHMENT ACT OF 2007”

Before the
Committee on Finance and Revenue
Council of the District of Columbia

The Honorable Jack Evans, Chairman

April 18, 2007, 11:00 a.m.
Room 120, John A. Wilson Building



Testimony of
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Good morning, Chairman Evans and members of the Committee on Finance and Revenue. My name is John Ross, Senior Advisor and Director of Economic Development Finance for the Office of the Chief Financial Officer (OCFO). I am here to testify for the OCFO on the “Freedom Forum, Inc. Payment In Lieu of Taxes Establishment Act of 2007.”

The proposed bill would require the owner of the Newseum site to make payments in lieu of taxes (or PILOT) for the exempt properties on the site. According to the proposed bill, the PILOT payments would be calculated as follows:

- a) For the residential portion of the site, the PILOT payment must be equivalent to the real property tax payment that would have been otherwise paid;
- b) For the commercial portion of the site, the PILOT payment must be equivalent to the real property tax payment that would have been otherwise paid; and
- c) For the Newseum and Freedom Forum portion of the site, the Freedom Forum must assess a surcharge of 5.75% on all admissions to the Newseum.

The legislation states that the total of all PILOT payments and all other sales taxes collected from retail and restaurant establishments must be at least \$2 million for each tax year.

There are two problems with the 5.75% surcharge proposal for the Newseum and Freedom Forum portion of the site. First, the Office of Tax and Revenue (OTR)

has reviewed whether sales taxes should be charged on admission to the Newseum. While the Newseum will have some exhibits that would not be subject to the ticket tax under District law, the vast majority of the activities would be subject to ticket admission tax. Where there are two types of events within one venue, some of which are not subject to tax and the majority of which are subject to tax, then the tax must be imposed on all of the activities. Thus, the Freedom Forum must collect sales tax on tickets sold to enter the Newseum.

If the legislation is enacted as currently drafted, the Freedom Forum would be required to collect 5.75% sales tax on tickets sold as well as an additional 5.75% surcharge on all admissions to the Newseum.

The second issue is that the land use agreement between the Freedom Forum and the District states that the Freedom Forum must make PILOT payments equal in amount to the real property tax that would have been owed on the property. The proposed 5.75% surcharge would not necessarily produce an amount approximating the property taxes.

Both of these issues can be overcome by changing Section 2(b)(1)(C) of the legislation such that the PILOT payment on the Newseum and Freedom Forum portion of the site must be equivalent to the real property tax payment that would have been otherwise paid, as estimated by OTR.

If this change is incorporated, there will be no fiscal impact. Without this change, it is not possible to estimate the fiscal impact of the legislation. This change would not exempt the Newseum from collecting sales taxes under existing law on admissions to the museum.

In addition, the OCFO would like to recommend a few technical changes to the legislation. I have attached these to my written testimony as Attachment A.

Thank you for the opportunity to testify. This concludes my testimony, and I am happy to answer any questions you have at this time.

Attachment A

1. The trigger for the properties being subject to the PILOT should not be when a certificate of occupancy is issued for the Newseum. Each portion of the property should become subject to the PILOT when the permits are made final to permit occupancy of that portion of the property.
2. The provision stating that the total tax collected cannot be less \$2 million needs more specificity. For example, if less than \$2 million is collected, the bill should specify how much of the make-up payment is PILOT and how much is sales tax.
3. The reference to § 47-812(b) is incorrect because this provision is no longer in effect. The legislation should state that the properties will be subject to the PILOT in the same amount and under the same conditions as if the properties were taxable, and subject to the same collection procedures and laws for the collection of delinquent real property tax.
4. The legislation should state when the properties become subject to the PILOT or become taxable, i.e. the first day of the following month after a trigger is satisfied.
5. The PILOT shall be due and payable under the same conditions and the same collection provisions as real property taxes, including the imposition of penalties and interest.