

PUBLIC HEARING ON
BILL 17-086, “NUISANCE PROPERTIES ABATEMENT
REFORM AND REAL PROPERTY CLASSIFICATION
AMENDMENT ACT OF 2007”

Before the
Council of the District of Columbia

Committee on Finance and Revenue
The Honorable Jack Evans, Chairperson

and the

Committee on Public Services and Consumer Affairs
The Honorable Mary M. Cheh, Chairperson

May 24, 2007, 10:00 a.m.
Room 412, John A. Wilson Building



Testimony of
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Natwar M. Gandhi
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Good morning, Chairpersons Evans and Cheh, and members of the Committee on Finance and Revenue and the Committee on Public Services and Consumer Affairs. I am Stephen Cappello, Supervisory Assessor at the Office of Tax and Revenue (OTR). I am pleased to present testimony today on Bill 17-86, the “Nuisance Properties Abatement Reform and Real Property Classification Amendment Act of 2007.”

Bill 17-86 was drafted by OTR and the Department of Consumer and Regulatory Affairs (DCRA) to streamline the identification and taxation of vacant, improved properties; to eliminate duplicative efforts by both agencies; and to close loopholes in the prior law. The bill demonstrates the commitment of OTR and DCRA to the efficient use of governmental resources and equitable application of the policies of the Council to deter blight.

As you are aware, Bill 17-86 is presently in effect through temporary and emergency pieces of legislation (Law 16-259 and Act 16-586, effective March 8, 2007, and December 28, 2006, respectively). This bill and the temporary and emergency pieces apply to tax year 2007 and prospectively.

Vacant properties result in significant increases in costs to society, including increased stress on police and fire resources, deterioration of historic structures, and decreased tax revenue due to diminished values of neighboring properties and the vacant property itself. For reasons not necessarily limited to the foregoing, the Class 3 property tax rate is \$5.00 per \$100 of a vacant property’s value.

Under the former vacant property and Class 3 property classification law, DCRA would determine whether an improved real property was vacant under its own criteria. OTR always determined whether unimproved land was vacant. If DCRA determined that improved property was vacant, it certified this to OTR. OTR would then evaluate whether the property was vacant under OTR's own set of criteria, which were more expansive than those of DCRA. The end result was that DCRA had a large list of properties that were deemed vacant, but OTR's list was an inconsistent subset thereof; the two agencies were not working with the same criteria, and there was an inefficient duplication of effort. Only when a property was vacant under OTR's list could it be taxed at the Class 3 property tax rate. The owner of a property could appeal OTR's determination of vacant status to the Board of Real Property Assessments and Appeals (BRPAA).

Under the bill, DCRA is now the sole agency to determine whether an improved property is vacant and, therefore, can be taxed as Class 3 property. OTR continues to determine whether unimproved land is vacant. DCRA (for improved property) and OTR (for unimproved property) provide informal, in-house appeal mechanisms for taxpayers, and appeals of the agencies' final determinations are taken to BRPAA. OTR's determination of vacant land continues to be subject to new owner-type appeal rights, and whether there is an in-house appeal before going to BRPAA depends on whether notification was sent in the fall or spring, consistent with OTR's appeals cycle.

In the bill, DCRA's exceptions to vacant status for improved properties are retained, and OTR's extra exceptions have been added to the DCRA list of exceptions. However, the combined exceptions have been narrowed to eliminate loopholes and to promote putting the property into productive use. Specifically,

exceptions involving the taxpayer's initiative, *e.g.* permit construction, probate and title litigation, sale or rent, fire or flood, zoning applications, and qualifying non-profit housing organization, are limited to three years in duration. Beginning with tax year 2008, the taxpayer will no longer be able to claim any combination of these exceptions *ad infinitum*. Additionally, the building permit exception is now limited to those instances where completion of the permit will make the property fit to be occupied. Because not every exception can be anticipated and legislated, DCRA maintains discretion in special circumstances to except indefinitely an improved property from vacant status.

DCRA mails a notice of denial or revocation of registration to the property owner, or a notice that the property is a non-registered vacant property. The owner has 15 days to appeal to DCRA. DCRA must issue a final determination within 30 days of the petition date. Thereafter, the owner has 45 days to appeal to BRPAA.

Once the administrative appeals have been exhausted, DCRA provides a list to OTR. OTR reclassifies the properties as Class 3 from the half tax year during which either the owner first notified DCRA that the property is vacant or the owner received a notice of final determination from DCRA. OTR thereafter mails bills to the taxpayers. Penalty and interest can only be assessed beginning 30 days after the real property tax bill is issued.

Concerning unimproved properties, OTR remains the sole agency to determine whether such property is vacant and, therefore, can be taxed as Class 3 property. Similar to the DCRA statute, the exceptions to the Class 3 status for unimproved property have been retained, but the loopholes have been eliminated. For instance, a property for which a building permit has been issued or a construction loan has

been recorded, which is for sale or is owned by a qualifying non-profit housing organization can only benefit from any combination of these exceptions for no more than three tax years beginning with tax year 2008. However, property that cannot be built upon as a matter of right, abuts Class 1 or Class 2 property, is a parking lot, is separated by an alley, or is located in certain development areas remains excepted from Class 3.

With unimproved properties, OTR mails to the owner a reclassification notice giving the owner “new owner-type” appeal rights. The owner may only appeal under such provisions, and a Class 3 designation may not be appealed with the annual assessment notice. The owner has a duty to notify OTR within 30 days when the property changes classification. Classification changes are retroactive to the beginning of the half tax year during which the change occurred. Penalty and interest can only be assessed beginning 30 days after the real property tax bill issues after administrative hearings have been exhausted.

In conclusion, Bill 17-86 addresses and eliminates the weaknesses inherent in the law that provides loopholes and ambiguity, rendering ineffective the Council’s policy of putting properties into productive use and eliminating blight.

For the above reasons, OTR believes that the Council should approve Bill 17-86.

Fiscal Impact of Bill 17-86

Implementation of the bill would generate \$10 million in additional revenue for fiscal year 2008. Please note that OTR will transfer 6 FTE’s and a prorated sum to fund those FTE’s for the balance of this fiscal year and will fund those FTE’s next fiscal year.

Thank you, Chairpersons Evans and Cheh, for the opportunity to comment on this bill. I would be happy to answer any questions you or other Council members might have at this time.