# PUBLIC HEARING ON
# BILL 17-0369 "NEIGHBORHOOD COMMERCIAL CORRIDOR TAX RELIEF STRATEGY ACT OF 2007"

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

**The Honorable Jack Evans, Chairman**

**November 28, 2007, 11:00 a.m.**
**Room 412, John A. Wilson Building**


**Testimony of**
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Good morning, Chairman Evans, and members of the Committee on Finance and Revenue. I am Michael Cooper, Chief Counsel for the Office of Tax and Revenue ("OTR") of the District of Columbia ("District"). I am pleased to present testimony today on Bill 17-0369, the "Neighborhood Commercial Corridor Tax Relief Strategy Act of 2007."

Bill 17-0369 is designed to compensate small and local businesses for lost revenue as a result of District infrastructure construction, such as, road paving, by providing real property tax relief. The bill requires the CFO to develop a real property tax relief strategy that would include making available administrative processes within the Office of Tax and Revenue ("OTR"). While this is a noble strategy and we are sympathetic to what Councilmembers are hoping to achieve, this bill will introduce a problematic real property tax relief scheme for the District.

**Real Property Assessment Issues**:

The relief proposed in the bill is connected to the value of the real property owned by the business owner; that is, a business owner would be entitled to obtain a real property tax reduction based upon a showing that certain scheduled infrastructure construction in its commercial corridor would negatively impact the revenue generated by the business. From a practical standpoint, the Real Property Assessment Division ("RPAD") would not be able to measure the economic impact to the real property value of businesses based upon temporary and limited disturbances from District infrastructure construction. The property value of businesses is primarily determined by comparable sales of other real property, not sales income.

Under standard real property assessment principles applied by state and local taxing jurisdictions, real property assessments take into account only locational obsolescence when considering a reduction in real property value. This occurs when property devalues based upon outside factors which are usually incurable or factors of a permanent nature. Road infrastructure construction is a short term disturbance and would have no impact on property value. Under OTR principles, a business would have to illustrate at least two years of market evidence before its property tax assessment would begin to show some type of economic impact. Most infrastructure construction presumably would not continue for that length of time.

**Loss of Business Revenue Issue:**

Due to the fact that the RPAD does not measure business disruption relevant to valuation of the long term asset, the bill would, in effect, compel the OTR to use the net income from sales as a method of measuring economic impact and connect the relief the bill provides to the loss of income. RPAD is not equipped to audit and review. Assessors are not trained to conduct this type of analysis as they do not valuate property through sales income. OTR would have to assign and transfer franchise tax auditors for the function of measuring business value through net sales income during a very limited period of time of District infrastructure construction.

Additionally, OTR would have to implement a verification process to determine that a true reduction in net sales income has in fact occurred. This would involve reviewing several prior years of tax returns. OTR estimates that a franchise tax auditor generates at least one million dollars of tax revenue for the District and if these auditors were transferred to fulfill this function, it would compromise their ability to generate the projected revenue for the District.

**Pro-rating Tax Relief:**

Currently, OTR does not have a computer system in place that is capable of pro-rating tax relief. All adjustments would have to be done by hand.

Presumably, some business owners could apply for this tax relief if their street was disrupted for a day or a week due to District construction and the OTR computer system would not be able to provide a credit proportional to the period of economic impact as envisioned by the bill.

**Technical Deficiencies**:

The bill, as written, contains numerous technical and conceptual deficiencies that would make it infeasible to administer in its current form. First, the bill does not distinguish between those business operators who own and run their business and those operators who lease commercial space in which they conduct their business. The bill provides relief in real property tax; however, the tax is only imposed on owners of improved real property where the business is conducted. Those business operators who lease commercial space to conduct their business would not be entitled to the benefit the bill offers.

Second, the bill provides relief for small and local businesses; however, "small and local businesses" are not defined. The bill then references "qualifying business owners" but does not define the phrase, nor prescribe a method by which a business owner becomes qualified. The bill also does not identify what is meant by “scheduled infrastructure.”

Third, the bill is ambiguous in its duration of tax relief. Section 4(2) states that the “tax relief may be extended to qualifying business owners who suffer continued loss of business beyond 30 days of completion of project.” However, section 4(3) states that the tax relief cannot be extended beyond 90 days. This can be interpreted in two ways; first, it can mean that the *total* duration of relief is 90 days or second, that a business owner is entitled to the tax relief during the entire duration of the infrastructure construction project *and* up to 90 days beyond the completion date of the project.

Fourth, there is no requirement that the DDOT provide notice to the OTR Director of Real Property of scheduled infrastructure construction or provide a certification of completion.

For all the above reasons, OTR believes that the relief provided to these business owners through a reduction in the assessed value of their real property and therefore a reduction in their real property tax is not a viable method. We respectfully recommend that the Council consider possibly converting this proposal to a grant program administered by the DDOT.

**Fiscal Impact of Bill 17-0369:**

The fiscal impact of Bill 17-369 cannot be estimated until the development of the proposed tax relief strategy is completed by the Mayor and submitted to Council. It is expected that implementation of the strategy will have a fiscal impact. It should be noted that any future changes in real property tax law resulting from the strategy would require Council approval and would require a fiscal impact estimate at that time.

Thank you, Chairman Evans, for the opportunity to comment on this bill. I would be happy to answer any questions you or other Councilmembers might have at this time.