

**PUBLIC HEARING**

**ON**

**Bill 18-1076 “West End Parcels Development Omnibus Act of 2010”**

**Before the  
Committee on Finance and Revenue  
Councilmember Jack Evans, Chairman  
and the  
Committee on Economic Development  
Councilmember Kwame Brown, Chairman  
Council of the District of Columbia**

**November 22, 2010, 10:00 AM  
John A. Wilson Building, Room 412**



**Testimony of  
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**Natwar M. Gandhi  
Chief Financial Officer  
Government of the District of Columbia**

Good morning, Chairman Evans, Chairman Brown, and members of the Committees on Finance and Revenue and Economic Development. I am John Ross, Director of the Office of Economic Development Finance and Senior Advisor to the Chief Financial Officer (CFO). I am pleased to testify today on the West End Parcels Development Omnibus Act of 2010.

According to a Land Disposition Agreement (LDA) authorized by the Council<sup>1</sup>, two District-owned parcels in the 1100 block of 24<sup>th</sup> Street, NW and the 2300 block of L Street, NW will be combined with an adjacent parcel currently owned by Eastbank-WDC Partners (Developer) to build a single mixed-use building containing a new West End Public Library, retail, and approximately 150 units of for-sale residential condominiums. The Developer will also redevelop a District-owned parcel in the 2300 block of M Street, NW to include a new Fire Station and approximately 52 units of affordable rental housing.

The Developer has requested an additional subsidy from the District for the construction of the affordable housing units. The proposed legislation does not address the subsidy required for the affordable housing component.

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<sup>1</sup> The West End Parcels Disposition Approval Resolution of 2010 was enacted by the Council on July 13, 2010.

The proposed bill would exempt the development on 24<sup>th</sup> Street, L Street, and M Street, NW (Property) from Deed Transfer and Recordation Taxes until the initial transfers of the properties from the District to the Developer are complete. The legislation also exempts the Property from real property taxes during the construction period. Based on the construction schedule provided by the Developer, the exemption from Deed Transfer and Recordation Taxes would result in approximately \$1.45 million in lost revenue, while the real property tax exemption would result in approximately \$656,000 in lost revenue to the General Fund during the financial plan period, for a total of \$2.1 million in lost revenue.

Based on our review of the project, it is not clear that the absence of the tax exemptions discussed above would prohibit the project from moving forward.

The legislation would also establish a non-lapsing maintenance fund (Maintenance Fund) to be used to pay the expenses related to supplemental maintenance for the Library and Fire Station. Eighty-five percent of the Deed Transfer and Recordation Taxes attributable to the condos constructed on in the 1100 block of 24<sup>th</sup> Street, NW and the 2300 block of L Street, NW would be deposited into the Fund. The condo building is not expected to be completed until FY 2015. As a result, this provision of the bill does not impact the current budget and financial plan. However, it would

result in a transfer of funds from the General Fund to the Maintenance Fund throughout the life of the project. Based on financial projections provided by the Developer, the OCFO estimates that more than \$8.5 million in Deed Transfer and Recordation Taxes would be diverted from the General Fund to the Maintenance Fund in the twenty year period beginning in FY 2015. Since the legislation does not contain any sunset date for the Fund, this amount would continue to grow over the life of the Maintenance Fund.

We also have a few technical comments on the proposed bill, which are appended to this testimony.

Thank you for the opportunity to comment. I would be glad to answer any questions you may have.

## APPENDIX – TECHNICAL COMMENTS

1. The end date of the real property tax exemption currently states “construction completion”. We recommend defining “construction completion” based on the issuance of the final certificate of occupancy, which the Developer should be required to furnish to the Office of Tax and Revenue.
2. To simplify administration, the maintenance fund could be funded by an allocation from the general fund, rather than by specific tax revenues. This would considerably simplify OTR’s administrative duties with respect to the fund. If the current funding mechanism is to be retained, the Bill should be modified to provide that all transfer and recordation taxes collected with respect to the lots in this development, net of payments into the Housing Production Trust Fund, shall be deposited in the maintenance fund. Conforming amendments should be made to the recordation and transfer tax statutes.
3. The recordation tax exemption in subsection (c) of new section 47-46\_ should be clarified to provide that the deeds conveying the property from the District to the Developer shall not be subject to recordation tax imposed by section 42-1103.

4. We recommend re-designating “Fund Managers” in section 2(b) of the Bill to “West End Maintenance Managers.” It appears that the Bill simply intends to designate these managers as the persons who have program authority to manage the fund. Pursuant to the Home Rule Act, the Chief Financial Officer will maintain custody and control of the money in the fund to be used as directed by the managers. Changing the name from “Fund Managers” to “West End Maintenance Managers” is a more accurate description of the function of the managers and eliminates any doubt regarding the Chief Financial Officer’s authority over custody and control of the fund.

Suggested language implementing these recommendations is attached below:

In section 2(d), strike the words “Fund Managers” and replace with “West End Maintenance Managers”.

In section 5(b), strike the existing language and substitute “(b) The Chief Financial Officer shall deposit into the Fund the transfer and recordation taxes collected with respect to the conveyance of Lots 836, 837, and 855 in Square 37 (or such successor record or assessment and taxation lots as may be created in the future) that are not deposited in the Housing Production Trust Fund.

Section 7 is amended by inserting by striking “Section 47-919” and substituting “Sections 47-919 and 42-1122”, striking “is” and substituting “are”, striking “85% of” and inserting after the word “future)” the phrase “that are not deposited in the Housing Production Trust Fund”.

In section 8(b), substitute for the existing subsection (c) of section 47-46\_\_ a new subsection (c) to read as follows: “(c) The deeds conveying the West End Parcels Development Project Property from the District to the Developer shall be exempt from the tax imposed by section 42-1103.

In section 8(b), strike the language following “Code” in section 47-46\_\_ subsection (d) and substitute “until the beginning of the half tax year following the half tax year in which the final certificate of occupancy for the Development is issued. The Developer shall provide a copy of such certificate of Occupancy to the Office of Tax and Revenue.”