

PUBLIC HEARING ON

“NoMa Public Parks Act of 2011”

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

The Honorable Jack Evans, Chairman

**March 16, 2011, 1:00 p.m.
Room 120, John A. Wilson Building**



**Testimony of
John P. Ross**

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**Natwar M. Gandhi
Chief Financial Officer
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Good afternoon, Chairman Evans and Members of the Committee on Finance and Revenue. My name is John Ross, and I am the Senior Advisor and Director of Economic Development Finance for the Office of the Chief Financial Officer (OCFO). I am pleased to testify for the OCFO on the “NoMa Public Parks Act of 2011.”

Summary of Legislation

The proposed legislation would establish a NoMa Tax Increment Financing Area (NoMa TIF Area) and the NoMa Reinvestment Fund. The NoMa TIF Area would comprise all of the area currently included in the NoMa Improvement Association Business Improvement District (NoMa BID), including some parcels already included in an existing TIF area as well as an undefined addition of “property adjacent to the boundary lines.” Under the legislation, the OCFO would be required to transfer from the General Fund to the NoMa Reinvestment Fund up to \$51.5 million of tax increment collected in the NoMa TIF Area.

Funds in the NoMa Reinvestment Fund would be provided to the NoMa BID to pay, finance, pledge or reimburse the NoMa BID for the acquisition, design, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, remediation, expansion, extension, equipping, service and amenities, opening, and maintenance of temporary and permanent public parks in the NoMa TIF Area as well as to pay, finance, pledge or reimburse the NoMa BID for public infrastructure projects, including water and sewer main capital improvements, in an undesignated area (but we assume the NoMa TIF Area).

Additionally, the legislation creates a NoMa Reinvestment Fund Advisory Board (Board) for approval of park expenditures (but not infrastructure expenditures). This seven member Board would consist of 3 members appointed by the NoMa BID as well as members appointed by the Mayor, the CFO, and Ward 5 and Ward 6 Council Members.

Fiscal Impacts

Although the proposed legislation establishes a 10-year TIF period, it would require diversion of the TIF revenues such that it would reduce revenues available to the General Fund by \$2.4 million in FY 2011 and by \$31.9 million during the four-year financial plan period. Based upon current revenue growth estimates, the authorized \$51.5 million of tax increment would transfer from the General Fund to the NoMa Reinvestment Fund between FY 2011 and FY 2015.

Risks

There are a number of concerns with this proposed legislation that should be taken into consideration.

- (1) Because the parties that normally serve as a check to ensure compliance with the Debt Cap, the Council and the OCFO, may not be in control of the pledge of tax revenues by either the Mayor or the NoMa BID, the BID would be able to execute debt instruments without regard to the District's Debt Cap and without returning to the Council for authorization. This provision would add to the debt counted against the District's Debt Cap, potentially causing the

District to exceed the Cap or reducing the District's capacity to enter into future planned debt.

- (2) The legislation places a wide range of financial and spending decisions in a private entity, the NoMa BID. Such decisions are normally undertaken by the Mayor and Council through the capital budget process.
- (3) The proposed legislation may set an unsustainable precedent for the District. By dedicating tax collections from one area of the District solely for expenditure in that area, there will be less General Fund revenue to spend in District neighborhoods with lower growth or less commercial development. Other areas within the District may ask for the same treatment.
- (4) The proposed legislation would transfer to the NoMa BID the money and authority to acquire land for, design, construct, renovate, equip, open and maintain public parks to service the NoMa BID area without coordination with the Departments of Parks and Recreation. In addition, the proposed legislation would authorize the NoMa BID to use District funds for undefined public infrastructure projects (including water and sewer capital projects) without coordination with the various District agencies charged with these duties.

- (5) The Council may want to consider limiting the proposed sources of tax increment. Current tax filing and database constraints would require the OCFO to estimate sales and deed and recordation taxes generated from the proposed TIF Area. Collections of real property tax increment, however, can be easily administered and account for 94% of the \$51.5 million estimated to be available to the Fund by FY 2015.
- (6) In addition, the OCFO Office of General Counsel has concerns about the legislation as currently drafted, as certain provisions are unclear. As stated above, one of these provisions could be interpreted to require transfers of deed and recordation tax stemming from outside of the proposed NoMa Reinvestment TIF Area such that the District's budget would need to accommodate the fiscal impact sooner than indicated in the fiscal impact statement. Some additional concerns include an incorrect authorization to issue debt under section 490 of the Home Rule Act, whether the Advisory Board is or is not a District entity, and the extent of Mayor and/or Council involvement in the decisions of the NoMa BID.
- (7) Finally, the proposed NoMa Reinvestment TIF Area contains some overlap with the existing H Street, N.E. Retail Priority Area. As tax increment from that overlapping area will be designated for the H Street Retail Priority Grant Fund, the proposed legislation should be amended to remove overlapping parcels.

Stephen B. Lyons, Deputy General Counsel for the OCFO Office of General Counsel, will be available to meet with you to recommend specific changes to the legislation.

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