PUBLIC HEARING ON
BILL 16-227, "COMPREHENSIVE TAX RELIEF FOR EVERY DISTRICT RESIDENT ACT OF 2005"

Before the

Committee on Finance and Revenue
Council of the District of Columbia

The Honorable Jack Evans, Chairman

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Room 412, John A. Wilson Building

Testimony of

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Good morning, Mr. Chairman and members of the committee. I am Julia Friedman, Deputy Chief Financial Officer for the Office of Revenue Analysis (ORA). With me today is Dan Black, Deputy Chief Financial Officer for the Office of Tax and Revenue (OTR). We are pleased to testify today on Bill 16-227, the "Comprehensive Tax Relief for Every District Resident Act of 2005."

Introduction

In considering the "Comprehensive Tax Relief for Every District Resident Act of 2005," and other tax legislation before you, I urge the committee to reflect on the tax system as a whole, recognizing that the various shortcomings in one tax may not be shortcomings of the tax system in its totality. In D.C. as in every state, city, and nation, no single tax meets every goal for taxation.

What matters most is a tax system that:

- Is perceived to be fair and understandable,
- Generates enough revenue for government work and does so at low cost because it is designed to be efficient,
- Avoids creating biases in the economy, and
- Wins a high degree of voluntary compliance from taxpayers.

Such a system, generally, is very straight forward, using broad tax bases that are not narrowed for special interests. Such a system treats taxpayers who are similar in a comparable way. And such a system recognizes that tax policy is generally very weak as a tool for achieving other kinds of social policy, and leaves most social objectives – like attending to those in need and encouraging economic opportunity – to programs that are much more effective and cost effective.

In cases where new legislation is designed to correct old "design flaws" in the tax system, I urge the committee to adopt some guidelines for consideration. First, do no harm. For example, try not to create more inequities or groups of tax-favored parties as you address a problem.

Second, design a solution that can be effectively administered. With each special consideration, the cost of tax administration rises. Retrospective tax considerations, for example, are extremely costly, invite lawsuits, encourage false filings, and take important administrative resources away from the core programs that encourage overall taxpayer compliance. Work toward forward-looking solutions. Programs that link real property taxes over time also are very costly to administer – properties change owners, change tax status, are renovated or deteriorated, lots are merged and split, and so on. All of these make a very high administrative burden for linking tax liability in one year to tax base in another. I would urge the Council to remember that multiple small changes to the tax system place at risk the entire process of voluntary compliance and orderly tax collection for the District. In the absence of meaningful and substantial additional funding, OTR is left with the choice between enforcing major tax programs and enforcing low-dollar programs.

Third, remember that the tax system in total may already have offset some problems, at least in part. For example, the deductibility of residential real property tax – on both District and federal income taxes – partly offsets the tax, especially for higher income taxpayers.

It has been the privilege of the OCFO to testify previously on the provisions covered by Bill 16-277. The table below offers a summary of revenue impacts and revenue information about these provisions, based on research we have completed to date.

Estimated Revenue Impact ($ in millions)						
Title	**Item**	**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**4 - Year Total**
I(A)	105% Limitation on Homestead	$15.90	$17.40	$19.20	$21.10	**$73.60**
I(B)	RPTx Rate Reduction to 92 cents	15.60	17.20	18.50	19.80	**71.10**
I(C)	Triennial Group I, 12% cap	8.00	8.00	8.00	8.00	**32.00**
I(D)	Sr Citizen RPTx Deferral	1.30	1.40	1.40	1.40	**5.50**
II(A)	Standard Deduction Coupling	30.20	30.30	30.50	30.60	**121.60**
II(B)	Standard Deduction Filing [1]	4.00	4.00	4.00	4.00	**16.00**
III(A)	Disabled Resident Credit	3.50	3.50	3.60	3.90	**14.50**
IV(A)	Pension Exclusion	12.00	12.00	12.10	12.10	**48.20**
V(A)	Estate Tax Re-Coupling	10.70	12.00	12.00	13.00	**47.70**
VII(A)	Recycling Refund & Credit	2.60	0.10	0.10	0.10	**2.90**
VIII(A)	APA Partial RPTx Exemption	0.94	0.97	1.01	1.04	**3.96**
VIII(B)	C.U. RPTx Exemption	1.00	1.00	1.00	1.00	**4.00**
VIII(C)	Carver 2000	0.05	0.05	0.05	0.05	**0.20**
VIII(D)	DuPont Commons	0.10	0.00	0.00	0.00	**0.10**
VIII(E)	Apalachian State	0.02	0.00	0.00	0.00	**0.02**
VIII(F)	Way of the Cross	0.01	0.00	0.00	0.00	**0.01**
	Net Annual Impact	**$105.92**	**$107.92**	**$111.46**	**$116.09**	**$441.39**

[1] Estimate of maximum exposure to the District

The estimated impact on expenditures, on a provision by provision basis is estimated as:

Expenditure Impact to the Office of Tax and Revenue ($ in 000s)					
Title	**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**4 - Year Total**
I(D)	$300	$60	$60	$60	**$480**
II(A)	150	50	50	50	**300**
II(B)	200	200	200	200	**800**
III(A)	130	80	80	80	**370**
Net Annual Impact	**$780**	**$390**	**$390**	**$390**	**$1,950**

TITLE I. REAL PROPERTY TAX RELIEF

Subtitle A. Owner-Occupied Residential 5% Property Tax Cap

The proposed legislation would limit the amount of real property tax liability for a residential owner-occupant to 105% of the real property tax for the previous year. This would be a change from current law enacted in Fiscal Year 2003 which limits the real property tax liability to 112% of the previous year's tax. This provision would be extremely difficult to administer, compounding problems in administering the current 12% cap, as indicated above.

If enacted, the bill would reduce revenue $15.9 million in FY 2006 and a total of $73.6 million for Fiscal Years 2006 through 2009.

Subtitle B. Residential Property Tax Rate Reduction

The proposed subtitle establishes new tax rates for real property taxation effective October 1, 2005. Class I property would be $0.92 for each $100 assessed value. The following table shows the estimated revenue reduction from lowering the Class I real property tax rate to $0.92:

	(1) with a 12 % Cap				(2) with a 5% cap			
Tax rate	FY 2006	FY 2007	FY 2008	FY 2009	FY 2006	FY 2007	FY 2008	FY 2009
95 cent/$100	3.9	4.3	4.6	5.0	17.4	19.1	20.7	22.1
94 cent/$100	7.8	8.6	9.3	9.9	21.3	23.4	25.3	27.1
93 cent/$100	11.7	12.9	13.9	14.9	25.2	27.7	29.9	32.0
92 cent/$100	15.6	17.2	18.5	19.8	29.1	32.0	34.6	37.0
91 cent/$100	19.5	21.5	23.2	24.8	33.0	36.3	39.2	41.9
90 cent/$100	23.4	25.7	27.8	29.7	36.9	40.6	43.8	46.9
89 cent/$100	27.3	30.0	32.4	34.7	40.8	44.9	48.5	51.9
88 cent/$100	31.2	34.3	37.1	39.7	44.7	49.2	53.1	56.8
87 cent/$100	35.1	38.6	41.7	44.6	48.6	53.5	57.7	61.8
86 cent/$100	39.0	42.9	46.3	49.6	52.5	57.8	62.4	66.7
85 cent/$100	42.9	47.2	51.0	54.5	56.4	62.0	67.0	71.7
84 cent/$100	46.8	51.5	55.6	59.5	60.3	66.3	71.6	76.7
83 cent/$100	50.7	55.8	60.2	64.4	64.2	70.6	76.3	81.6
82 cent/$100	54.6	60.1	64.9	69.4	68.1	74.9	80.9	86.6
81 cent/$100	58.5	64.4	69.5	74.4	72.0	79.2	85.5	91.5
80 cent/$100	62.4	68.6	74.1	79.3	75.9	83.5	90.2	96.5
79 cent/$100	66.3	72.9	78.8	84.3	79.8	87.8	94.8	101.4
78 cent/$100	70.2	77.2	83.4	89.2	83.7	92.1	99.4	106.4
77 cent/$100	74.1	81.5	88.0	94.2	87.6	96.4	104.1	111.4
76 cent/$100	78.0	85.8	92.7	99.2	91.5	100.7	108.7	116.3
75 cent/$100	81.9	90.1	97.3	104.1	95.4	104.9	113.3	121.3
74 cent/$100	85.8	94.4	101.9	109.1	99.3	109.2	118.0	126.2
73 cent/$100	89.7	98.7	106.6	114.0	103.2	113.5	122.6	131.2

Subtitle C. Triennial Group 1 Cap Disparity Correction

The proposed subtitle would require that all real property assessments in the triennial real property taxation group number 1 be re-valued to reflect a 12% annual assessment limitation backdated to October 1, 2001. Owners in Triennial Group 1 would receive a 12% assessment growth cap for FY 2003 when other homeowners received a 25% cap.

The proposed legislation would result in reductions in real property tax revenue of about $8.0 million in FY 2006 and subsequent years. As indicated earlier in the testimony, this program would be costly and difficult to administer; for example, each file for each lot from each of the successive years would have to be combined to determine the tax history for the parcel and calculate the current year taxable assessment. Because time does not stand still in property ownership, many actions in the intervening period will complicate this process.

Subtitle D. Senior Citizen Real Property Tax Deferral

This subtitle provides for the deferral of real property taxes until the sale or transfer of property for senior citizens who are 65 years or older, who reside in a Class 1 dwelling of less than 5 units, and whose household income is less than $50,000 annually. The senior citizen would be required to own 50 percent or more of the property, and all amounts deferred would be subject to interest at a rate equal to the rate on underpayments of federal taxation levied under § 6621, Title 26 of the Internal Revenue Code. The proposed legislation would result in reductions in real property tax revenue of $1.3 million for fiscal year 2006 and a total of $5.5 million for fiscal years 2006 through 2009.

Currently, however, the real property tax billing system does not have the capability to freeze real property taxes. Generally, taxes are based on the assessed value multiplied by the tax rate. The only exception is the tax cap program that provides a credit to the extent that taxes increase by more than 12%. Furthermore, the real property tax billing system does not have the capability to track deferrals. Deferral amounts will have to be tracked manually on paper. The billing system may be able to be upgraded to track such changes, but that would require money and time in order to keep track of deferred amounts may be for decades, depending on how long the person lives or how long he/she holds onto her house. Accordingly, we estimate that OTR would require $300,000 to implement the bill in fiscal year 2006 and $60,000 annually thereafter to maintain operations required by the legislation.

The deferral would be limited to an amount no greater than, but may be equal to, 25 percent of the assessed value of the property for the tax year for which the deferral is requested. The amounts subject to this limitation would include all deferred taxation plus accrued interest on the amounts deferred. Applicants must meet filing deadlines for full and half-year deferral amounts.

In the case of a transfer of real property to new ownership, the applicant would be responsible for the total liability that is subject to all existing requirements for timely payment. The eligibility of a senior's household for the deferral would not be affected by the transfer of the senior's household into a revocable trust if the transfer is without consideration and the senior's household remains the residence of the applicant-grantor before and after the transfer. Only one deferral may be claimed per household. The provisions of the proposed legislation would be effective October 1, 2005.

TITLE II. STANDARD DEDUCTION

Subtitle A. Standard Deduction Coupling

This subtitle proposes to couple the District's standard deduction amounts to mirror the federal deduction. Since the federal rate is higher, the proposed coupling would increase OTR refunds to taxpayers. Currently the District standard deduction is $1,000 for married taxpayers filing separately and $2,000 for all others. The federal standard deduction is $4,850 for married taxpayers filing separately, $7,150 for head of household filers, and $9,700 for married taxpayers filing jointly.

Increasing the standard deduction is a way to reduce the “creep” in the real costs of the income tax caused by inflation; it also improves the progressivity of the tax. OTR estimates that first-year implementation costs would be approximately $150,000.

Subtitle B. Standard Deduction Filing Election

Currently, under District law as well as most other states, taxpayers claiming the itemized deduction on their federal returns must itemize on their District returns. This proposal would contradict this standard practice and allow taxpayers to elect either the standard deduction or itemized deductions on their District returns. For example, if a married taxpayer filing jointly took the federal standard deduction of $9,700, he/she also would have to take the standard deduction on the District income tax return. The taxpayer could not decide to itemize on the District return even if it might result in more favorable tax treatment to the taxpayer.

The proposed Standard and Itemized Filing Election Act would allow persons filing individual income tax returns in the District to elect whether they wish to take the standard deduction or to itemize their deductions on their District return, regardless of how they filed on their federal return. OTR estimates that it would incur implementation costs of approximately $100,000 for additional staff and $100,000 in subsequent audit and examination costs.

We are not able to determine how many District filers would make this election and, therefore, cannot estimate the revenue impact at this time. However, if up to

40 percent of married District taxpayers who currently take the standard deduction elect to itemize on their District return because it would be beneficial to them, we believe that the District's revenue exposure would not exceed $4 million annually.

TITLE III. DISABLED DISTRICT RESIDENT TAX RELIEF

The proposed legislation amends Title 47 of the District of Columbia Official Code to provide a residential real property tax credit of 50% to disabled District residents with incomes less than $100,000, as Title 47 currently provides for property owners over age 65. In addition, the bill would allow disabled residents with incomes less than $100,000 to exclude $10,000 from the computation of income subject to taxation by the District of Columbia.

The bill defines "disabled" as a person who has been determined to be totally and permanently disabled by the Social Security Administration and who is receiving Supplemental Security Income or Social Security Disability.

If enacted, we estimate that the legislation would result in revenue reductions of $3.5 million in fiscal year 2006 and a total of $14.5 million for fiscal years 2006 through 2009. OTR estimates that first year implementation costs would be $130,000 and annual operational costs thereafter would be $80,000.

TITLE IV. PENSION OR OTHER RETIREMENT INCOME EXCLUSION

Under current District law, persons who are 62 years of age or older may exclude from their District gross income up to $3,000 of their pension, military retired pay, or annuity income received from the District of Columbia or the federal government. If the annual pension, retired pay or annuity amount is less than $3,000, the exclusion is limited to the amount received during the taxable year.

This proposal would increase the maximum amount of this exclusion. For persons who are 62 to 64 years of age, the proposed legislation would increase the exclusion from $3,000 to $6,000. For persons 65 years of age or older, the maximum amount of the exclusion would be increased from $3,000 to $10,000 annually. Survivor benefits received from the District or federal government would remain wholly excluded from gross income.

The fiscal impact of the proposed legislation on the District's budget would be significant. According to our estimates, this proposal would result in unbudgeted reductions in District General Fund revenue of $12 million dollars annually with a four year cost of $48.2 million.

Many states provide state tax exclusions for retirement and pension income, and most exclude Social Security income, opting not to tax the Social Security amount taxed by the federal government. Virginia excludes $6,000 of pension and retirement income for individuals aged 62 up to 65 and $12,000 for individuals 65 and over. Maryland excludes $20,700 for individuals 65 and older. The District also excludes Social Security benefits for retired workers, with a revenue implication of approximately $33 million annually, as noted in the tax expenditure analysis included in the District's FY 2005 budget submission to Congress.

Implementation of this legislation will require moderate changes to forms and programming changes to the tax system, at a cost of approximately $10,000.

TITLE V. ESTATE AND INHERITANCE TAX RE-COUPLING

This proposal would make the estate tax filing threshold in the District the same as the federal estate tax threshold. Under current law, an estate tax return must be filed in the District if the gross estate exceeds $1 million compared to the federal threshold of $2 million. This proposal would add a new subparagraph (C) to subsection (4) of section 3701 of Title 47 of the District Code to increase this amount. Specifically, the ceiling would be raised to $2 million if the decedent's death occurs in 2006, 2007, or 2008, and would be further raised to $3.5 million if the decedent's death occurs in 2009.

Implementing the proposed legislation would result in unbudgeted reductions in local General Fund revenue of $10.7 million beginning in FY 2006 and $30.4 million in fiscal years 2006 through 2009. Unbudgeted revenue reductions may be made as long as the District's budget and financial plan remains in balance.

In recent years, OTR has received approximately 360 estate tax filings annually from District taxpayers. Approximately 50% of the filings are from taxpayers with gross testamentary estates that total between $1 million and $2 million.

TITLE VI. FEE COLLECTION INCENTIVE

The Fee Collection Incentive proposal provides incentives for District of Columbia government agencies that collect fees and fines to become more efficient in these functions, by requiring that 5 percent of surplus funds collected by an agency over the revenues projected to be collected in that year's appropriated budget be deposited in a Fee Collection Incentive Fund. Monies in the fund would be returned to that agency's budget for its operations in the second following budget year. The bill also provides that such supplemental revenue shall not be used by the agency for employee bonuses and any expenditure of funds shall directly enhance the agency's efficiency."

In practice, some fees will generate less revenue than estimated and some will generate more. Collection above the estimate would occur with a larger fee-paying population than expected and with a new, or newly changed, program that suddenly "takes-off." In FY 2004 such events would have caused roughly $1.25 million to be returned to agencies in the FY 2006 budget. Looking ahead, we know there will be some "excess" in each year. However, we should always expect agencies to match collections with their estimates and not create an incentive to under-estimate as a way of adding to future budgets. Further, if an agency has a surplus in one year, we should expect no surplus within two years for the same fees and fines, as increased efficiency is incorporated into future revenue estimates. Therefore, the supplement should be viewed as one-time revenue to the agency and budgeted accordingly.

We would suggest more clarity about the definition of "fees and fines" that are eligible under this legislation, and would be pleased to work with staff to delineate these. Because of the nature of the appropriation process, we assume that the bill applies only to collections subject to general appropriation and not to dedicated or "earmarked" funds.

TITLE VII. RECYCLABLE MATERIAL SALES TAX CLARIFICATION

For the past 16 years, District law has imposed a sales tax on the gross receipts derived by a for-profit trash company in providing exterior or interior garbage removal services. This sales tax applies whether or not that company decides to recycle a part of that garbage by selling it to a third-party re-user.

However, this proposal would repeal the sales tax on these services retroactive to July 25, 1989, to the extent that the garbage removed by the for-profit company was recycled. Thus, the bill would require OTR to refund all of the tax collected on garbage removal services involving recycled garbage for the past 16 years.

The OCFO strenuously opposes the enactment of this bill. We believe this proposal cannot be administered and is susceptible to fraud. We are deeply concerned that there may be no accurate, objective way for OTR to ascertain what portion of the total garbage collected over the past 16 years was recycled by these for-profit trash companie**s.** This information is needed to calculate the amount of sales tax with interest to be refunded under this proposal. For a similar reason, OTR is concerned about administering or auditing this exemption in the bill on a going-forward basis.

Based on available OTR records going back to FY 1998 – six of the 16 prior years covered by this bill – and tax payments from companies currently identified, we estimate a minimum refund of $2.5 million. This proposal would result in reductions in sales and use tax revenue of at least $0.1 million in current and future years. In addition, costs of administration could be quite high because there is no independent way to verify the recycled content of trash that is commercially collected.

The bill is likely to have a discriminatory tax effect because OTR is unable to identify many of the persons that have paid this sales tax over the past 16 years so as to refund sales tax to those persons. The District's sales tax forms do not require vendors to specify the nature of their business or what portion of the sales tax collected was imposed on any particular services. Thus, only some of the persons entitled to refunds under this bill would receive them.

Furthermore, if enacted, the bill would interfere with the on-going administration and collection of District taxes by negating existing, written settlement and closing agreements previously entered into by OTR and a taxpayer. The bill would therefore encourage taxpayers who have failed to comply with their District tax obligations and have already agreed to fulfill them through the tax administrative process to seek legislative redress for the purpose of eliminating retroactively those obligations to the District.

Unlike state constitutions, our Home Rule Charter limits the objects and sources on which the District can impose tax and raise revenue. Thus, for many years the District has imposed sales tax on garbage removal services performed by for-profit companies without regard to whether some of the garbage was recycled. Additionally, this tax generally does not affect homeowners because it is the District that collects their garbage and recycles a portion of it.

TITLE VIII. REAL PROPERTY TAX EXEMPTIONS

Subtitle A. American Psychological Association

The purpose of this bill is to exempt from real property taxation lot 146 in square 677 owned by APA 750, LLC, and occupied and used by the American Psychological Association. It is presumed that APA 750, LLC, a limited liability company, is a wholly owned subsidiary of the American Psychological Association. This exemption provides for an indefinite real property tax exemption, subject to annual exempt use reporting requirements. However, this exemption does not provide for an exemption from recordation taxes.

OTR has closely reviewed this bill. The owner of the real property, APA 750, LLC, could not qualify for a real property tax exemption because it is not organized under the District's Nonprofit Corporations Act or similar act of a foreign jurisdiction. Additionally, the user of the real property, the American Psychological Association, would probably not qualify for an administrative exemption since it is doubtful that its charitable activities principally impact citizens of the District, as specifically required by D.C. law; the activities of this organization appear to be national in scope. As a matter of administrative burden, it will be difficult for OTR to monitor the ownership of the limited liability company and discover whether an interest therein is subsequently sold to a for-profit entity. Additionally, for over 60 years the District has systematically denied real property exemptions to charities that do not principally benefit District residents. The award of an exemption in this instance would be a departure from precedent and would grant preferential treatment to one taxpayer while denying the same benefit to other members of the same class; such an exemption award would be inequitable. For these reasons, we do not believe that this bill should become law.

Having made these views known, we recognize that this committee and the Council may yet approve this bill. In this regard, OTR has technical concerns surrounding this proposal. In addition to being subject to the provisions of DC Official Code §§ 47-1007 and 47-1009, the ownership, use and occupancy of the real property should be subject to § 47-1005. To treat the real property the same as real property exempt by administrative decision, the bill should also explicitly state that the exemption shall commence on the first day of the month following the date that this bill becomes effective.

The proposed legislation would result in an annual revenue reduction of $940,000 in FY 2006 and $3.96 million for fiscal years 2006 – 2009.

Subtitle B. The Catholic University of America

The purpose of this provision is to exempt from real property taxation approximately 49 acres owned by Catholic University, located in the Northeast quadrant of the District and contiguous with the university's campus. This proposal would exempt this parcel from real property taxation as long as it is used by the university consistent with its exempt organization and activities.

Exemption from tax is a decision we believe should be very carefully considered in light of the impact on District revenues and tax policy precedent. This exemption is for land that is owned and managed by a tax-exempt institution, and it appears that the proposal would ensure that use of the land would conform to the university's original exempt purpose. We find it noteworthy that the land was previously owned by the federal government and sold to Catholic University. It is our view that the parcel in question would most likely qualify for an administrative exemption from real property tax but for the fact that the land, as federal property, was not zoned. Furthermore, the Council previously approved this parcel for exemption through emergency and temporary legislative measures.

We would recommend that the exemption take effect on the first day of the month following the month in which the property title was transferred to the university, to conform this exemption to those of all other real property exemptions granted under OTR's standard administrative exemption process. We would also request that the committee review the attached technical correction that would provide this exemption with the same standing as those granted under OTR's administrative procedures.

The Office of the Chief Financial Officer estimates the fiscal impact of this provision to be approximately $1 million, as the transfer of the parcel from the federal government to Catholic University gave rise to real property taxes from which an exemption is necessary under the District's tax code.

Subtitle C. Carver 2000 Low-Income and Senior Housing

The Carver 2000 Low-Income and Senior Housing Project is a project currently underway in the District involving 176 units of apartments and town homes for senior citizens and low-income residents of the District. The Carver 2000 Tenant's Association is the recipient of $2.4 million in grants from the District to afford long-term, low-income tenants the opportunity to purchase their own homes. This proposal would provide real property and personal property tax relief for eight years and would also provide for the abatement of recordation and transfer taxes on the units. A temporary version of this measure, D.C. Act 15-768, was enacted on January 19, 2005.

We estimate that the real tax property relief for this project will be approximately $310,000 for eight consecutive tax years beginning with tax year 2003. In addition, there will be approximately $15,000 in personal property tax relief for the same period and approximately $45,000 in one-time transfer fees forgiven. The total tax relief provided for this project will be approximately $370,000.

Subtitle D. Dupont Commons Low-Income Housing

In 2002, the Washington Interfaith Network collaborated with Enterprise Homes, Inc. to form a non-profit tax-exempt organization, WIN/Enterprise Fort Dupont Nehemiah Homes, Inc. (WEFD), for the purpose of developing affordable housing in Ward 7. The organization acquired several lots from the District of Columbia Housing Authority in July 2002 and proceeded with a plan to subdivide and develop the lots into 147 units of affordable low-income housing.

The subdivision and development of the housing, however, was not completed in the same tax year as the transfer from the District of Columbia Housing Authority, thus triggering a taxable situation for the non-profit organization. Under current law, a non-profit organization that develops properties for sale to lower-income purchasers must complete the development and transfer of the property within a year from acquisition of the property in order to qualify for a tax exemption.

The proposed legislation would provide tax exemptions for a longer development period for non-profit organizations that (1) have been denied exemption from District real property taxes, (2) have acquired property to develop more than ten units of housing for affordable or lower-income homeownership, and (3) that subdivide the acquired property into more than 10 units.

Specifically, the bill would permit non-profit organizations meeting these requirements to have two years from the date of the subdivision of the property to develop and transfer it without incurring liability for recordation, transfer and real property taxes. It also would extend the exemption from recordation and transfer taxes for units sold within four years from the date of subdivision.

Currently, the bill would only affect the Dupont Commons project. We estimate that the exemption on this project for tax years 2003, 2004 and 2005 would be approximately $100,000. We cannot predict the extent to which the provisions in the bill would be used by other non-profit organizations in the future.

Subtitle E. Appalachian State University

The purpose of this proposal is to exempt from real property taxation lot 0042 in square 0871 as of October 31, 2003, and to refund real property taxes, and recordation and transfer taxes, that have been paid since that date. The real property is owned by The Board of Trustees of the Endowment Fund of the Appalachian State University ("Endowment Fund") by deed acknowledged on October 30, 2003, and recorded on November 20, 2003. The real property is located at 622 - 624 North Carolina Avenue, SE.

On October 31, 2003, the Endowment Fund applied for a real property tax exemption. The exemption was denied on April 13, 2004, and the denial was never appealed to the Superior Court. The six-month statute of limitations for appealing the denial has expired.

The exemption application of the Endowment Fund was denied because endowment funds typically hold property for investment purposes and not for a charitable or other exempt purpose as required by District law. Additionally, the board of trustees of the Endowment Fund is different from the board of trustees of the Appalachian State University, so the owner is not an educational institution using real property for educational purposes as the statute requires. In light of these limitations, OTR believes the fund should not enjoy the benefits of exemption from real property tax when the actual use of the real property is for investment purposes – similar to those of real estate developers and other profit-making investors – and does not advance the kind of charitable or other exempt purpose contemplated by District law.

The proposed legislation would result in unbudgeted reductions in local General Fund revenue of approximately $19,381 in FY 2006.

If the exemption had been granted, the effective date of the exemption would have been December 1, 2003: the first day of the following month from when the deed was recorded. Additionally, transfer taxes from the grantee would have been owed, regardless of whether the exemption had been granted administratively.

<u>Subtitle F. The Way of the Cross Church of Christ</u>

The purpose of this provision is to exempt from real property taxation 21 lots in square 5730 as of January 1, 2004, and to refund real property taxes that have been paid since that date. The real properties are owned by The Way of the Cross Church of Christ by deed acknowledged on April 17, 2003, and recorded on May 9, 2003. All of the real properties are located on Alabama Avenue, SE, including the parsonage. The real properties are contiguous to the parsonage, located at 2483 Alabama Avenue, SE, with an alley in the middle. The Way of the Cross Church of Christ is incorporated under the District's Non-profit Corporations Act.

The parsonage, located on lot 0918, comprises 14,607 square feet of land and is improved. The remaining lots, which are also the subject of this exemption legislation, comprise an additional 42,633 square feet of land and are vacant.

On March 21, 2005, The Way of the Cross Church of Christ applied for a real property tax exemption. Since the application has only been on file for three weeks, OTR has not had sufficient time to determine whether a real property tax exemption may be granted administratively. We believe it is probable that an exemption would be issued for the lot improved by the parsonage, although we note that vacant lots could only be exempt under District law if they are reasonably required and actually used for carrying on the activities and purposes of The Way of the Cross Church of Christ. OTR recommends that consideration of this bill be deferred until we can review properly and expeditiously the application of The Way of the Cross Church of Christ for administration exemption of the property in question.

The proposed legislation would result in unbudgeted reductions in local General Fund revenue of approximately $9,222 in FY 2006.

If the exemption application were to be granted administratively, the effective date of the exemption would be April 1, 2005: the first day of the following month from when the application was received. OTR respectfully requests that The Way of the Cross Church of Christ not be placed in a better position than an applicant that actually qualified for an administrative real property tax exemption. Therefore the legislation should be amended to only forgive taxes owing since April 1, 2005.

Conclusion

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

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