

PUBLIC HEARING ON

**Vacant to Vibrant Amendment Act of 2024,
Bill 25-1003**

**Before the
Committee of the Whole
The Honorable Phil Mendelson, Chairman**

Council of the District of Columbia

**Friday, November 15, at 11:00 a.m.
John A. Wilson Building, Room 412**



Testimony of

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Good morning, Chairman Mendelson and Members of the Committee of the Whole. I am Elena Fowlkes, Assistant Director of Operations at the Office of Tax and Revenue (OTR). I am pleased to testify for OTR on Bill 25-1003, the “Vacant to Vibrant Amendment Act of 2024” (the Bill).

The Bill represents the culmination of work done over the past year by this Committee’s Vacant and Blighted Property Working Group, comprised of a diverse group of stakeholders including ANC Commissioners, Business Improvement District representatives, researchers and District agencies, including OTR. In general, the Bill provides for a wide variety of tax incentives to spur development of vacant and blighted properties. This testimony will focus on those provisions.

- *Installment Agreements*

The Bill formalizes the process for eligible homeowners to pay delinquent real property taxes in monthly installments over a 12-month period. Homeowners are eligible for this relief if they are receiving the homestead property tax credit and are either seniors or can demonstrate financial hardship.

- *Progressive Tax Rates*

To encourage property owners to rehabilitate their properties and to disincentivize them from letting their properties remain vacant, the Bill creates progressive tax rates for both Class 3 and Class 4 properties, with eight new subclassifications (3A, 3B, 3C, 3D, and 4A, 4B, 4C, 4D). The new subclassifications are based on how long a property has been registered as vacant.

For the first year of vacant registration, the tax rate that will be applied is the same as the general residential or commercial rate. If the property remains vacant, the rates progressively increase over the next four years to the maximum rates of \$5 per for Class 3 and \$10 per \$100 of value for Class 4.

This new progressive rate structure can be administered by OTR so long as the Department of Buildings (DOB) certifies the applicable subclassification for each property per half tax year when it certifies the vacant and blighted roll to OTR for tax purposes. However, OTR emphasizes that, for billing purposes, the certifications from DOB must be on a half tax year basis, and not a portion thereof.

OTR notes that, in the past, many properties have oscillated between occupied status and vacant or blighted, as certified by DOB. If this oscillation were to happen with this legislation, the tax rates would reset to the lowest

rates after a property is then deemed again vacant or blighted after having previously been determined to be occupied. If a longstanding vacant property is then deemed blighted, the first year of taxation would be at the general Class 1 or Class 2 rate, as applicable, so a property going from vacant to blighted would go from the \$5 rate to the \$0.85 rate (if residential) for the first year of blighted taxation.

- *New Tax Sale Procedures*

The Bill provides for a tax sale procedure allowing the District to foreclose on vacant or blighted properties one year after the date of delinquency. This provision appears to create an exclusive remedy for Class 3 and Class 4 abatement. Since properties that are vacant or blighted can receive exemptions from DOB from taxation as Class 3 or Class 4, the prerequisite for inclusion in the tax sale should be based on vacant registration with DOB (and not Class 3 or Class 4 status) because vacant registration does not change. This should provide a more consistent and stable list.

The Bill does not provide for staffing augmentations to accommodate these additional responsibilities on the District, including providing additional attorneys at the Office of the Attorney General (OAG) and funding title searches, guardians ad litem, publications, and noticing. In the past, many vacant and blighted properties were sold at a discount tax sale, where taxes

may be abated to sell properties when the taxes exceed their respective values (which is common with vacant and blighted properties).

Under the Bill, privatized enforcement through the discount tax sale procedures will be replaced by a new procedure of District enforcement. Under the new enforcement procedures, the responsibility to foreclose on properties will rest entirely on the District and the ability to discount taxes is discontinued. The elimination of the discount tax sale for Class 3 and Class 4 Properties will also result in the increase in inventory of so called “upside-down” properties where the accumulated taxes exceed the value of the property.

It is unclear who will purchase these properties unless those tax liabilities are discounted. Elimination of the discount tax sale with procedures for privatized enforcement could unintentionally result in the proliferation of vacant and blighted properties.

- ***Income/Franchise Tax Credit***

To encourage small-scaled residential rehabilitation of vacant and blighted properties, the Bill provides for a refundable income and franchise tax credit in the amount of 75% of the eligible development costs. The Mayor must certify to OTR that the property owner is eligible to receive the tax

credit, and that amount of the eligible development costs. The Mayor may only approve up to \$2.5 million in credits each fiscal year.

The eligible development costs must exceed \$150,000 and the credit must be taken in the year the rehabilitation is substantially completed. The Bill, as introduced, provides for a cost-of-living adjustment (COLA) to the \$150,000 minimum in eligible development costs.

To make the provision administrable, OTR respectfully requests that the cost-of-living adjustment (COLA) for the eligible development costs of \$150,000 be eliminated. It is likely that most taxpayers will incur eligible development cost over the span of multiple years. If the COLA is enacted, there will be uncertainty in the amount of eligible development costs a taxpayer must incur when undertaking a project. For example, a taxpayer could begin a project with the expectation of incurring only \$150,000 in eligible development costs but that amount, with a COLA, could be \$160,000 by the time the project is substantially completed (resulting in a denial of the credit).

OTR further suggests a few minor technical changes to the Bill to clarify that this new credit will be enacted as a new subchapter to Chapter 18 of Title 47 and rather than as a new chapter to Title 47. A copy of proposed clarifications is attached for your reference.

- ***Real Property Tax Abatements***

To encourage commercial rehabilitation of vacant and blighted properties, the Bill also provides for real property tax abatements where eligible development costs exceed \$1.5 million. The property owner must apply to the Mayor and receive an eligibility letter. The Mayor thereafter certifies to OTR which properties are eligible for the abatement and the amount thereof. The Mayor may only approve up to \$3 million in abatements during each fiscal year through 2029, and \$6 million in abatements during succeeding fiscal years.

- ***Applicability Date***

Lastly, the Bill should have an applicability date, especially where tax provisions are concerned. OTR recommends that the Bill be applicable beginning with Fiscal Year 2027 and avoid retroactive application, to allow for processes and programming to be developed to implement its provisions. However, the amount of time needed for OTR to implement these changes will also depend on the final technical requirements of the Bill, the extensiveness of required changes to the Tax Sale process, and the process established with other agencies to complete these modifications.

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