

# **PUBLIC HEARING ON**

**BILL 20-23 RESIDENTIAL REAL PROPERTY EQUITY AND  
TRANSPARENCY ACT OF 2013**

**BILL 20-318 SENIOR CITIZEN REAL PROPERTY RELIEF ACT OF  
2013**

**BILL 20-476 DISTRICT REAL PROPERTY TAX SALE ACT OF 2013**

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

**The Honorable Jack Evans, Chairman**

**October 17, 2013, 10:00 a.m.  
John A. Wilson Building**



**Testimony of Stephen M. Cordi  
Deputy Chief Financial Officer  
Office of Tax and Revenue  
Office of the Chief Financial Officer**

**Natwar M. Gandhi  
Chief Financial Officer  
District of Columbia**

Mr. Chairman and members of the Committee, my name is Stephen Cordi, Deputy Chief Financial Officer for the Office of Tax and Revenue. I am pleased to present testimony on the legislation before the Committee today.

Before discussing the particulars of the legislation, I would like to provide some background on the tax lien sale process and the issues which have arisen concerning it. The tax sale is the only enforcement mechanism provided by statute for the collection of real property taxes. The real property tax is the District's largest single source of revenue, producing approximately \$2 billion per year. Under existing law, the tax sale operates by selling to investors the right to pursue the collection of unpaid real property taxes, earning the interest thereon until the taxes are paid and the recovery of legal fees if suit is filed. Foreclosure lawsuits may not be filed until six months from the date of the tax sale. If the property is not redeemed during the judicial process, the tax lien purchaser is awarded a tax deed. In practice, only about 3% of the properties sold at the tax sale result in the issuance of a deed to the tax sale purchaser.

Recent media reports on the tax sale have focused on several cases in which homeowners lost their homes over a few hundred dollars of unpaid taxes as a result of tax sales which took place before 2008. The Office of Tax and Revenue agrees that these cases were regrettable. In 2008, both as a matter of fundamental fairness, as well as a matter of practical tax administration, OTR moved to eliminate the low-dollar sale of tax liens by instituting a \$1,000 threshold. While that threshold has been both higher and lower in subsequent years, it has had the effect of eliminating the sale of properties for a few hundred dollars since 2008.

The institution of a threshold by OTR was, not surprisingly, not popular with everyone. One tax sale purchaser filed suit to prohibit us from conducting a tax sale in 2009 with a \$1,200 threshold. When the Superior Court ruled that we could not implement a threshold except by permanent regulation (instead of the emergency regulation we had used), we refused to conduct the sale without a reasonable threshold and so postponed the sale until a permanent regulation could be adopted.

OTR has taken other steps to reduce the circumstances under which properties are sold at the tax sale or foreclosed upon if sold. In particular, in

the last several years we have instituted new notices to property owners advising them of the impending sale of their properties in the weeks before the sale and now advise those property owners whose properties have been sold of the steps they need to take to avoid legal fees and foreclosure. Both of these measures have proven to be very effective. The D.C. Council has also helped out considerably several years ago when it adopted legislation with our support to tie qualification for the senior deduction to the prior year's income. This permits us to notify seniors in advance of the real property tax year that their income exceeds the limit, and thus minimize the number of cases in which we have to revoke the deduction retroactively.

This said, there is only so much OTR can do administratively. Matters such as limiting legal fees, creating exemptions for senior citizens and others, and providing a higher threshold than is necessary for tax administration purposes, are policy matters for the Mayor and the Council and require changes in law. Issues like these and others are the subject of today's hearing. Let me then turn to the individual bills.

Bill 20-318, the "Senior Citizen Real Property Tax Relief Act of 2013" would provide an outright exemption for the real property tax for

taxpayers who are 75 years of age, whose household income is less than \$60,000 per year and who have resided in the District for 25 years. We have had the opportunity to work with Councilmember Bonds and her staff on this legislation, and, while some technical issues, which we have conveyed to the Councilmember's staff, remain to be addressed, we believe that this legislation can be administered effectively. This legislation will provide tax relief to senior citizens and, at the same time, for qualifying seniors, eliminate the threat of the tax sale.

This is the right moment, Mr. Chairman, to share with the Committee a suggestion of OTR's Residential Real Property Advisory Council which we established last year at your urging. At its meeting last week, attended by Ruth Werner of your staff, a proposal was made that the District not sell the tax liens of Homestead properties but rather handle them directly. We understand that the Attorney General has some reservations about this proposal and we do not want to proceed without taking his views into account.

Bill 20-476, "District Real Property Tax Sale Act of 2013" is the permanent version of Bill 20-449 "Real Property Tax Sale Emergency Act,"

authored by you, Chairman Evans, with several of your Council colleagues as co-sponsors, and passed by the Council on September 17, 2013. It is pretty straight-forward, setting a \$2,000 threshold for future tax sales, limiting legal fees to \$1,500, providing for the cancellation of 2013 tax sales of Homestead and veteran-owned properties. The bill also intends to provide that the District pay the difference between what tax sale purchasers pay at the sale and the amount of taxes owed at the time be paid to the previous property owner when the tax sale closes out upon the issuance of a tax deed. The State of Maryland does something similar.

As you know, Dr. Gandhi, at the request of the Mayor, cancelled the 2013 tax sales of all Homestead properties. For that reason, if Bill 20-476 were to become law, the only other cancellations required would be non-Homestead properties owned by veterans. We have no automated way to determine which District properties may be owned by veterans. OTR would, therefore, in all likelihood implement this provision by sending a survey to property owners, listed as individuals, inquiring as to veteran status.

We believe the legislation could benefit from using the defined term, “surplus,” if that is what is intended, as well as ensuring that the legislation

addresses the question of whether or not the payment of the surplus to the prior property owner is subject to the claim of other lien holders. It is entirely possible that a property owner who has no equity in the property would end up with a windfall if legitimate lien holders were by-passed.

We have also been asked to comment upon Bill 20-483 the “Real Property Tax Sale Homeowner Protection Act of 2013,” a bill drafted by the Mayor’s Office and the Attorney General, which, while not on today’s hearing list, addresses some of the same issues. The legislation is much more comprehensive than either Bill 20-318 or Bill 20-476. The OCFO had an opportunity to work with the administration on this legislation and believes that it can be administered effectively. The bill provides for both a Real Property Tax Ombudsman to assist Class I real property owners with real property tax matters and an Office of Tax Sale Review to consider requests for owner-occupied real property to be withheld from the tax sale. It provides for changes in noticing and requires posting of notices under certain circumstances.

Bill 20-483 provides relief that is different from Bill 20-476 in four material respects: (1) the tax sale threshold proposed is \$2,500 vs. \$2,000;

(2) the \$2,500 threshold applies only to the owner's primary residence versus all properties; (3) legal fees are capped at \$2,200 versus \$1,500; and (4) the tax sale purchaser is provided with the right to petition the Superior Court for additional legal fees versus an absolute cap. OTR has no views on the threshold which is a policy matter for the Mayor and the Council. We do think there is something to be said for providing tax sale purchasers with the right to petition for additional legal fees. It is a right which is provided tax sale purchasers in Maryland. Its absence in the District inserts an element of risk to purchasers that may discourage participation in the sale.

Finally, Bill 20-23, the "Residential Real Property Equity and Transparency Act of 2013," is a very different piece of legislation than the other proposals discussed so far. It would impose both impediments to the District's ability to conduct a tax sale and disincentives for purchasers to participate in the sale, to the point that that it would, more likely than not, kill the tax sale outright. While some may think that eliminating the tax sale altogether would be a good thing, it would leave the District with no way to enforce the real property tax and, most likely, lead to increased non-payment of taxes. We have reviewed this bill with the Attorney General and share his



concerns about its adverse impacts on the tax lien sale. We understand he will cover these concerns in detail in his testimony.

We would be happy to assist the Council, if it so desires, in amending the legislation so that it would actually work, provide real help to property owners and preserve the tax sale.

In closing, I would note that each of the bills before the Committee today offers valuable improvements to the tax sale process, improvements that can only be accomplished by legislation. The task is to harmonize the strongest features of each to produce the very best possible legislation. You can count on us for whatever assistance you may require. I very much appreciate the opportunity to have testified today.