

Bolling Air Force Base Military Housing Clarification Act of 2015

Before the Committee on Finance and Revenue

**The Honorable Jack Evans,
Chairman**

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Room 120, John A. Wilson Building**



**Testimony of
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Good morning Chairman Evans and members of the Committee on Finance and Revenue. I am Bazil Facchina, Assistant General Counsel for the Office of Tax and Revenue. I am pleased to present testimony on Bill 21-411, the “Bolling Air Force Base Military Housing Clarification Act of 2015.”

The Bill as drafted would exempt real property located on Joint Base Anacostia-Bolling (formerly known as Bolling Air Force Base), from the Ballpark Fee imposed under D.C. Official Code § 47-2762. The Bill would also forgive any past due Ballpark Fees owed by this feepayer and provide for refunds of any such Ballpark Fees previously paid. However, the Ballpark Fee is not assessed against real property; it is an assessment on gross receipts received by a feepayer from the operation of a business.

Thus, as drafted, the Bill grafts a corporate tax exemption onto an existing property tax exemption.

The Bill would exempt a feepayer from payment of the Ballpark Fees that are pledged for the payment of the Ballpark Revenue Bonds. Such an exemption would violate the District’s covenants to the holders of those District Ballpark Revenue Bonds payable from the Ballpark Fees. Pursuant to the Ballpark Omnibus Financing and Revenue Act of 2004 (“Act”), the bond financing documents and the public offering documents, Ballpark Fees are pledged to pay the

debt service on the Ballpark Revenue Bonds. Further, Section 103(e) of the Act (D.C. Official Code §10-1601.03(e)) states that “the District will not limit or alter the revenues pledged to secure the bonds or the basis on which the revenues are collected or allocated”. Subsection (e) goes on to provide that “(t)his subsection shall constitute a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.” Thus, the District has covenanted (i.e., entered into a contractual obligation) to the bondholders to comply with the provisions of the Act and the bond documents. Violation of these covenants would create a default under the Bond documents.

The Bill raises a question whether all private District companies doing business with the Federal government on property owned by the Federal government could seek similar exemptions from District income and business taxes.

In addition to these issues, but in no way resolving the concerns about the violation of the bond covenants described above, the Bill contains technical problems. It exempts real property from the Ballpark Fee. Since the Ballpark Fee is a personal liability of the feepayer, the Bill as drafted would not exempt the feepayer from the fee. In section 2(b) of the Bill, the term “including” should be stricken and replaced with the term “and” if the intent of the Council is to only add an

exemption to the Ballpark Fee. The use of the term “including” could result in an interpretation that an exemption from additional taxes is available.

Thank you, Chairman Evans, for the opportunity to comment on this Bill. I would be happy to answer any questions at this time.