



APARTMENT AND OFFICE BUILDING
ASSOCIATION OF
METROPOLITAN WASHINGTON

**TESTIMONY BEFORE THE
DISTRICT OF COLUMBIA TAX REVISION COMMISSION**

DECEMBER 3, 2012

PRESENTED BY:

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SENIOR VICE PRESIDENT OF GOVERNMENT AFFAIRS
AOBA**

Good afternoon Chairperson Williams, fellow Commissioners, and staff. My name is W. Shaun Pharr, Esq. and I am the Senior Vice President of Government Affairs for the Apartment and Office Building Association of Metropolitan Washington (AOBA). AOBA is a non-profit trade association representing owners and managers of more than 46,000 apartment units and over 68 million square feet of office space in the District of Columbia. AOBA first wishes to thank you Chairman Williams, for your successful efforts, as Chief Financial Officer and later as Mayor, to steer the District from troubled to more stable financial times. Your legacy is evident in the continued economic revitalization which can be witnessed all across this city.

I. THE CLASS 2 REAL PROPERTY TAX RATE

AOBA believes that various financial pressures warrant tax relief for the commercial real estate sector. Real estate transactions, particularly those involving commercial properties, have fueled the District’s economy. However, the enormous economic benefits the city is reaping are also tempered by one of the highest real property tax rates in the region for commercial properties.¹ This means that for commercial properties, the real property tax rates on a per square foot basis in the District are significantly higher than in neighboring northern Virginia jurisdictions. So, for the tenant who is shopping for space and is not totally

¹Consider also, other operating costs. Utility costs account for approximately 18-22% of the total cost for operating a commercial building. This percentage may increase given the pending Washington Gas rate case before the DC Public Service Commission and anticipated Pepco rate case in first quarter 2013. Additionally, DC Water’s FY 2013 rates are 5.5% higher than in FY 2012.

Selected tax rate comparisons					
Item	DC	MARYLAND		VIRGINIA	
		Mont Co	PG	Arl.	Fairfax
Residential	0.85*	0.825*	1.072*	0.958	1.075
Commercial	1.85**	0.825	1.072	0.958	1.075
Deed taxes***	2.90	2.30	2.51	0.833	0.833
*Note: DC stated rate is not what is actually paid. DC has a \$67,500 homestead exemption, various credits, and cap on increases. Maryland counties also pay various regional levies that are not included.					
The first \$3 million is taxed at 1.65. *Transfer and recordation					
Source: Overview of the District’s Economy and Tax Base Presentation (Presented to the Commission on Nov. 19, 2012), DC Office of Revenue Analysis page 24.					

enamored with having a DC address— and we are seeing more of those— the real property tax rate differential is definitely going to get their attention.

The Commission should consider reducing the Class 2 real property tax rate. It will assist us in attracting and maintaining the tenant base which ensures that commercial properties will continue to generate revenues the city can use to meet its citizens' needs. In his remarks to the Commission, Mayor Gray also requested that the Commission consider a reduction to the Class 2 real property tax rate. Specifically, he requested that the Commission consider the impact of reducing the rate from \$1.65 to \$.90/\$100 of assessed value for the first \$3 million of assessed value, and from \$1.85 to \$1.10 per \$100 of assessed value over \$3 million, phased in over a five-year period.²

II. TAX PRACTICES AND POLICIES AFFECTING MULTIFAMILY PROPERTIES

AOBA's multifamily members are confronting rising costs similar to those being experienced by those in the commercial office building sector.³ Unlike them however, the majority of housing providers must somehow meet these costs within the context of the city's rigid rent control regime.⁴ With rent control, housing providers are subject to statutory limits on rent increases that severely restrict the ability of the housing provider to increase revenue,

² Letter from Mayor Vincent Gray on inaugural D.C. Tax Revision Commission meeting (Aug. 3, 2012), page 2.

³ Older buildings which provide utilities to residents have higher operating costs and are constantly in need of repairs and improvements ranging from new elevators to HVAC systems. Other expense categories such as utility expenses, insurance costs, and property taxes represent a significant percentage of the total operating costs for any apartment building. Utility costs typically represent 18-30% of operating expenses while property taxes, the unincorporated business tax, and insurance costs can make up an additional 15%, but this number can be much higher. Then, there is the ever-increasing list of miscellaneous fees and taxes imposed by the District which include, but are not limited to: (1) business licenses for apartment buildings; (2) proactive inspection and reinspection fees; (3) rental unit fee; (4) condominium conversion fees; (5) elevator license and inspection fees; (6) swimming pool fees; (7) underground storage tank fees; (8) boiler inspection fees; (9) energy efficiency fund charges; (10) unincorporated business tax; (11) baseball stadium fees; (12) E-911 tax; (13) deed transfer and recordation taxes; and (14) vault rental fees.

⁴ D.C. Official Code § 42-3502.05; DHCD, A Rent Control Report for the District of Columbia, published June 2011 ("our initial estimate is that there are currently 4,818 properties with 79,145 housing units potentially subject to rent control regulation in the city."); DHCD Rent Control Report, p. 14 ("About a quarter of the properties (1,149 properties or 23.9 percent) were built before 1920. Almost half of the properties (2,352 or 48.8 percent) were built in the 1920s, 1930s, and 1940s. Another quarter of the properties were built in the 1950s or later. The distribution of units looks slightly different, however, with roughly equal shares of units built between 1920 and 1949 as were built between 1950 and 1975. This reflects the construction of larger scale rental developments in the city after World War II."); *The Likely Impacts of Rent De-Control on District of Columbia Residents*, Nathan Associates, Inc., June 2000, p. 17 (Most occupied rental units in the District are located in structures built before 1975. Only 13 percent of occupied rental units are in structures built since 1974 and 14 percent are in structures built in the 1960s. About 70 percent were built before 1960).

and for which there is no clear analogy to the pass-through mechanism that exists in the commercial sector.⁵ It is a challenge for housing providers to maintain an aging housing stock based on the allowable rent increases, and it is frequently not possible to do so. Housing providers are also facing looming building code and other regulatory changes that will cost millions of dollars. AOBA recommends that the Commission incorporate the following into its research agenda: (1) the impact of the District's rent control regulatory scheme on the total assessed values and overall multifamily base, and ultimately on the District's revenues; and (2) the development of tax credits or abatements that could be utilized to help maintain and preserve the District's aging housing stock for future generations of tenants.

III. FRANCHISE TAXES

AOBA supports Mayor Gray's recommendation that the Commission also consider the impact of lowering (or even repealing, as recommended by Councilmember Jack Evans (D-Ward 2)) the business franchise tax rates to a level that is comparable to the amount levied by the District's neighboring jurisdictions. The District's rate, currently at 9.975%, is far higher than in Virginia and Maryland. The high tax rate, in conjunction with a high class 2 real property tax rate, places the District at a competitive disadvantage in the region, where Virginia primarily, is better positioned to compete for and attract new businesses. Reducing or even eliminating this tax could improve the District's competitive standing in the region.

⁵ A housing provider may only increase the rent for the general tenant population by CPI plus 2%, but by CPI only for elderly and disabled tenants. District law also curtails the ability to raise rents upon vacancy. Rents may increase by 10% but no more than 30% of the prior rent charged and only if there is a unit that is substantially identical to the vacant unit within the same housing accommodation renting for more than the vacant unit. See §§ 42-3502.08 (increases to the rent charged) and 42-3502.13 (increases for vacant unit).

IV. THE ADMINISTRATION OF REAL PROPERTY TAXES

It is equally important for the Commission to focus its attention on the administration of real property taxes, beginning with the quality of the underlying real property assessments. It is impossible to overstate the importance of the Office of Tax and Revenue's (OTR) assessment functions to the District, considering that real property tax collections represent approximately 32% of the District's revenues. Notably, Class 2 collections account for approximately 67% of total real property tax collections. Given the significance of real property taxes to the District, it is crucial that the District dedicate sufficient resources to perform its assessment functions. The District can improve the assessment process by ensuring that OTR's Tax Administration is provided with adequate resources to successfully perform its crucial important assessment functions. AOBA has repeatedly testified in support of funding for additional training and qualified staff for the Tax Administration. Importantly, adequately trained and knowledgeable appraisers are more likely to produce fair and accurate real property assessments creating long-term confidence in the system.⁶ We also support vesting the Tax Administration with the authority to create new positions that will enhance the efficient operations of OTR's assessment functions.⁷

⁶Unfortunately, training expense is usually one of the first casualties in a budget crisis. However, the District must recognize that once hired, appraisers should be able to receive the necessary training to maintain the level of skills required.

⁷Some jurisdictions have implemented an appraiser apprenticeship or trainee program that is available to individuals to individuals who meet certain minimum qualifications. Program requirements usually require that the applicant have: (1) attained the age of 18 years; (2) graduated from high school or hold a certificate of equivalency; (3) met established residency requirements; and (4) satisfied specified training and education requirements. Appraiser apprentices assist appraisers with valuing property by conducting much needed research and data collection. Implementing such a program in the District could not only improve the District's assessment functions, it could be an important part of the Mayor's job creation initiative.

V. CONSIDERATION OF RECOMMENDED PROCEDURAL CHANGES TO REAL PROPERTY TAX ASSESSMENT PROCESS.

As noted above, improvements to the administration of the real property tax scheme, including the procedures for pursuing an appeal, are appropriate topics for the Commission's consideration as part of its research agenda. On the subject of appeals, AOBA fully supports the recommendations proposed by Ryan LLC in testimony to the Commission. AOBA believes that the proposed changes will bring additional fairness and equity to the real property tax appeals process. Specifically, the Commission should consider the following:

- Amend Title 47 of the District of Columbia Official Code to provide that in the event a taxpayer files a judicial appeal contesting a real estate assessment, such taxpayer shall only be required to pay the real estate tax based on the uncontested portion of the real estate assessment as a prerequisite to filing such judicial appeal.
- Amend Title 47 of the District of Columbia Official Code to provide that in the event a taxpayer files a judicial appeal contesting a real estate assessment, the District of Columbia must obtain an independent appraisal from a certified DC Certified General Licensed Real Estate Appraiser not otherwise employed by the OTR during the discovery portion of the appeal.
- Amend Title 47 of the District of Columbia Official Code to provide that in the process of any administrative appeal of a real estate assessment in which the OTR either increases or recommends an increase in its original published assessment, such increase or recommended increase must be supported by an appraisal performed by an independent general certified real estate appraiser, who is licensed in DC.

VI. CONCLUSION.

It has been a pleasure to have had this opportunity to address the Tax Revision Commission and I am available to answer any questions.

