



APARTMENT AND OFFICE BUILDING
ASSOCIATION OF
METROPOLITAN WASHINGTON

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

June 24, 2013

PRESENTED BY:

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Chair, DC Tax Policy Committee
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Good evening Chairperson Williams, fellow Commissioners, and staff. My name is David J. Chitlik and I am a Senior Director, for Lodging and Property Tax, with Marriott International, Inc. where I have overseen the property tax department (domestic and international) for sixteen years. I began my professional career as the Chief Assessor for the City of Alexandria and currently serve as the Chair of the Alexandria Board of Equalization. Overall, I have a total of forty-one years of property tax experience. I am also the Chairperson of the DC Tax Policy Committee of the Apartment and Office Building Association of Metropolitan Washington (AOBA). AOBA is a non-profit trade association representing owners and managers of more than 48,000 apartment units and over 77 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 have devoted a lot of my professional efforts toward finding “best practices” and attempting to incorporate them into various jurisdictions. As I look at the District, one of the biggest issues that I see is the large gap between the tax rate it applies to commercial property, compared to neighboring jurisdictions. Given that the District is competing with both Maryland and Virginia for the shrinking number of high-value commercial users, this disparity is approaching an economic crisis. The answer is simple: close the gap by lowering the Class 2 real property tax rate, and simplifying the tax structure – because, currently, there are too many different taxes that make tax administration challenging.

AOBA has testified on numerous occasions about the need for improving the District’s tax administration system; specifically, at its real estate tax assessment office. Providing adequate training and resources for assessors is critical and has been overlooked in

the past. Being “business friendly” should start with helping taxpayers understand what they owe; and, when issues arise, the District should not immediately treat the taxpayer as a criminal. Ironically, even when the District is the cause of an error, the taxpayer is assumed at fault and bears the burden of proving compliance with applicable law.

I. TAX RATES AND ADMINISTRATION AFFECT BUSINESS ATTRACTION AND RETENTION

A jurisdiction’s tax rates, together with the administration of its tax policies, can send a welcoming-- or discouraging-- message to resident companies weighing whether to remain in the District or relocate elsewhere, as well as to those considering a District location for the first time. While tax rates directly affect the bottom line, tax administration can also have an indirect, yet significant, impact on a company’s operations. Complex and seemingly opaque tax policies and forms, for example, can hinder compliance efforts and consume company resources and time. The District has consistently ranked near the bottom of surveys ranking business-friendliness of jurisdictions, in part because of its historically high tax rates, especially in comparison with neighboring jurisdictions. If this is to change, the District must consider reducing its tax rates and implementing improvements to its tax administration system.

The Commission can expect opposition to these views based on the false assumption that businesses will elect to remain in, or relocate, to the District *despite* its high tax costs of doing business. A few points will quickly identify the flaws in this argument. The District is competing with and, in many cases, losing to, increasingly aggressive Maryland and Virginia localities in its efforts to retain and attract new business tenants. At the same time, large law firms and the federal government are significantly reducing the amount of space they lease in

the District. Backfilling that space with new tenants is challenging, given the availability of cheaper office space in large quantities in neighboring jurisdictions. Vacancy rates in northern Virginia, for example, have spiked as a result of scheduled base closings.¹ In addition to the millions of square feet of office space being vacated by the federal government, there is also the collateral loss of additional occupancy, as contractors migrate to be closer to their US Department of Defense contracting partners. Efforts by Virginia property owners and local governments to secure new tenants are well underway. If the District is to compete with our neighbors and continue to grow, we must develop tax policies which reflect this regional competitive reality and adjust our tax policies accordingly.

II. 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, for commercial properties, the real property tax rate paid on a per square foot basis in the District is significantly higher than in neighboring northern Virginia or suburban Maryland jurisdictions. So, for the tenant who is shopping for space and is not totally 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.

¹Fairfax County Economic Development Authority - BRAC, See website touting proximity to the District. (*Northern Virginia's proximity to Washington, D.C., and the Pentagon, as well as the availability of commercial office space, has made the area an attractive location for DoD agencies and public sector contractors.*); Arlington County BRAC Transition Center website (*"The BRAC Commission's decisions will directly impact approximately 4 million square feet of office space in Arlington and 17,000 direct jobs. The indirect impact (contractors and non-government companies that work with directly affected agencies) is unknown, but will be substantial. This impact will be spread out over several years and extend beyond the September 15, 2011 BRAC deadline."*); Sernovitz, Daniel J., "BRAC Losses Continue to Mount in Northern Virginia," Washington Business Journal, December 20, 2012 ("Crystal City's Class A vacancy rate jumped to 22.3 percent from third quarter of 2011, a 14.5 percent increase. Cushman & Wakefield estimates that 3.2 million square feet of Crystal City's office market, or about 27 percent, has been impacted by the base realignment. Across the R-B corridor, Class A office vacancies increased 4.6 percent to about 18 percent. Cushman & Wakefield predicts, however, that the corridor will rebound sooner than Crystal City because it has less exposure to the military reshuffling plan. About 1 million square feet of leases, or about 5 percent of the R-B corridor's office market, will be impacted by the movement. *Landlords across the region have been working since the military realignment plan was announced to reposition their buildings, with Lowe Enterprises, Penzance Cos., and Vornado Realty Trust each planning major overhauls to recruit new tenants.*"); See also U.S. Department of Defense, Office of Economic Adjustment -- Arlington, Virginia, Leased Space ("In Arlington County, 13,000 of the 17,000 jobs—and 3 million of the 4.2 million square feet of BRAC-affected leased office space—are located in Crystal City")

Thus, the enormous economic benefits the city is reaping are also tempered by the highest real property tax rate in the region for commercial properties.² For this reason, 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.³

III. FRANCHISE TAXES

AOBA supports Mayor Gray's additional recommendation that the Commission also consider the impact of lowering (or even repealing, as recommended by Councilmember Jack Evans (D-Ward 2)) the city's business franchise tax rates to a level that is comparable to those levied by its neighboring jurisdictions. The District's rate, currently at 9.975%, is far higher than those in Virginia and Maryland. This high business tax rate, in conjunction with

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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.					

Consider, 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 2013. Additionally, DC Water's FY 2013 rates are 5.5% higher than in FY 2012.

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

a high class 2 real property tax rate, places the District at a competitive disadvantage in the region, where Virginia, particularly, 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.

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 to the District of the assessment functions performed by the Office of Tax and Revenue (OTR), 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 accurately perform its assessment functions. The District can improve the assessment process by ensuring that OTR's Real Property Tax Administration (RPTA) 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 RPTA. Importantly, adequately trained and knowledgeable appraisers are more likely to produce fair and accurate real property assessments, creating long-term confidence in the system.⁴ We also support vesting the RPTA with the authority to create new positions that will enhance the efficient operations of OTR's assessment functions and

⁴Unfortunately, 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.

create a pipeline of future appraisers who are both experienced and knowledgeable about the District.⁵

V. OVERVIEW – COMPARISON OF REAL PROPERTY TAX APPEALS PROCESS IN THE ALEXANDRIA, VIRGINIA AND THE DISTRICT OF COLUMBIA

Most Virginia jurisdictions have an assessor-level, or first-level, appeal that is optional for taxpayers. A taxpayer may elect to bypass this stage (most do not) with the Department of Real Estate Assessments (Department) and file directly with their local Board of Equalization and Assessment Review (Board).⁶ These Board members in Virginia are appointed by the Circuit Court, or elected officials, or both (e.g., the City Council recommends, and Circuit Court appoints, members in the City of Alexandria).⁷ Taxpayers in the City of Alexandria, as in most other Virginia localities, can file their first appeal with the Department of *or* the local Board.⁸ In Alexandria, the Board renders same-day decisions

⁵Some 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.

⁶ See Virginia Ann. Code §15.2-840B (The board of supervisors shall appoint a board of equalization of real estate assessments composed of not less than three nor more than eleven members). Fairfax County, see the [Board of Equalization of Real Estate Assessments \(BOE\)](#).

⁷ City of Fairfax: Board members are recommended by the Council and appointed by the Circuit Court. <http://www.fairfaxva.gov/government/real-estate/board-of-equalization>

⁸ City of Alexandria Real Estate Assessment Review and Appeal Process: <http://alexandriava.gov/realestate/info/default.aspx?id=1648> (“The real estate assessment Review and Appeal process began when Notices of Assessment were mailed to property owners on February 8, 2013. **Property owners who contend that the assessed value does not represent the fair market value of their property as of January 1** for the assessment year, or that the assessment is not equitable with comparable properties, or is otherwise erroneous, **may request that the Department of Real Estate Assessments (Department) review the assessment, *or* you may file an Appeal with the Board of Equalization and Assessment Review (Board)**. The deadline for requesting a Review of Assessment by the Department is March 15, 2013. Review forms are considered filed timely with the Department if received or postmarked by the U.S. Postal Service no later than March 15, 2013. The deadline for filing an **Appeal** of Real Estate Assessment with the Board of Equalization and Assessment Review is June 1, 2013. **Appeal forms** will be considered filed with the Board if received or postmarked by the U.S. Postal Service no later than June 1, 2013. It is not a requirement that you first request a review of the

after hearing a case and deliberating in the presence of the taxpayer. Additionally, filing an appeal with the Board is a prerequisite to appealing an assessment to the Alexandria Circuit Court.⁹ This is an exception as, in most Virginia jurisdictions, a Board appeal is *not* required before a filing a Court-level appeal. A taxpayer may file in court for the current year and up to three prior years. There are many other rules that apply Statewide, and some Virginia jurisdictions also have various rules and procedures specific to their own locality.¹⁰ In Alexandria, there are fewer court cases than in the District. The smaller caseload is attributable to: (1) lower tax rates (which affects the cost/benefit analysis taxpayers conduct in deciding whether to appeal), (2) higher-quality assessments (increases taxpayers' belief that underlying assessment is fair and accurately reflects value), and (3) most frequently, issues are satisfactorily resolved with the assessor or Board.

In the District, unlike in Virginia, the first-level appeal with the assessor is mandatory, and a prerequisite to filing a second-level appeal with the Real Property Tax Appeals Commission (Commission). The Commission is composed of full- and part-time Commissioners who are District employees.¹¹ The Commissioners are nominated by the Mayor and confirmed by the Council. The appeal process or “tax appeal season” in the District is more formal and the timeline is longer than in Virginia, due, in part, to differences in the tax appeal calendar. There is a strong perception in the District that the Assessor and RPTAC are more interested in “protecting” the commercial tax base, rather than their

assessment by the Department before you file an appeal with the Board, but we strongly encourage you to do so. Property owners who are not satisfied after seeking a remedy through the real estate assessment Review and Appeal process may file suit in the Alexandria Circuit Court within three years of the tax assessment year in question.)”

⁹ City of Alexandria Real Estate Assessment Review and Appeal Process: <http://alexandriava.gov/realestate/info/default.aspx?id=1648> (In order to file a lawsuit, the property owner or the owner's agent must have appealed the alleged erroneous assessment to the Board of Equalization and Assessment Review and they must have heard and acted on the appeal.)

¹⁰ See for example, Alexandria [Appeals - Rules and Procedures for Hearing](#).

¹¹ DC Official Code § 47-825.01a(a)

statutory charge of finding the fair market value of a property. Refunds resulting from appeals are commonly referred to as “lost revenue,” even though the tax dollars collected from an erroneous assessment were never the city’s to “lose.” The original stated reason offered by sponsors of legislation abolishing the former review board and creating the Commission was to avoid the “large” reductions ostensibly being granted by its predecessor (even though the actual assessment changes it deemed warranted were never more than a minuscule percentage of the tax base).

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.