

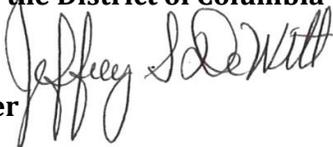
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 25, 2019

SUBJECT: Fiscal Impact Statement – Modification of the Freedom Forum, Inc. Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004 Amendment Act of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on November 12, 2019

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Background

The District sold property it owned at 6th Street, N.W. and Pennsylvania Avenue, N.W.¹ to The Freedom Forum, Inc. The Freedom Forum planned to operate or construct the Newseum, residential housing, a restaurant, office space, and other retail space. In 2000, the Freedom Forum and the District entered into a Land Use Restriction Agreement (LURA) to limit the uses on the property to these previously described uses.² The LURA required the Freedom Forum to seek permission from the District for any material use changes, office space leases to unaffiliated entities, or the sale or lease of any portion of the Newseum unrelated to normal operations of the museum. The LURA also contemplated that should the Freedom Forum seek or be determined to be exempt from real property taxation that it would be responsible for a Payment in Lieu of Taxes (PILOT) equivalent to any real property taxes that would be due on the property beginning on the date the Freedom Forum

¹ Known for assessment and tax purposes as Square 491, Lots 2001, 2002, and 2004-2138.

² Some terms of the LURA were amended in 2002 and 2008.

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FIS: "Modification of the Freedom Forum, Inc. Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004 Amendment Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on November 12, 2019

received the certificate of occupancy for its project. In 2005, the Freedom Forum was granted a real property tax exemption³ and in 2008 entered into a PILOT agreement with the District requiring the Freedom Forum to pay an annual minimum of \$2 million to the District. The PILOT could be covered by the sum of a real property tax equivalent for the residences plus any sales taxes due from the Newseum gift shop and the restaurant.

In early 2019, the Freedom Forum announced that it would sell the property to the Johns Hopkins University (Johns Hopkins). The Freedom Forum also announced in the Fall of 2019 that the Newseum would cease operations at the end of 2019. The closure of the museum will violate the LURA and the sale of the property, per the LURA, must be approved by the District. So long as the LURA is in effect following an approved transfer of the property, the purchaser will continue the PILOT if it is also deemed to have a tax-exempt status; otherwise the property will be subject to real property taxation.

The bill amends the Freedom Forum's real property tax exemption to ensure that the property maintains its tax-exempt status until the transfer of the property to Johns Hopkins. The bill also sunsets the Freedom Forum's tax exemption on the first day of the of the month following the transfer of the property to Johns Hopkins.

The District and the Freedom Forum must amend the LURA to recognize the change in use of the property upon the closure of the Newseum. Additionally, the Freedom Forum and Johns Hopkins desire to terminate the LURA⁴ and the PILOT prior to or at the time of the property transfer. These changes and terminations do not require legislative action and will be effectuated through separate administrative agreements between the District and the Freedom Forum.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. The Freedom Forum-owned property is presently exempt from real property tax and subject to the agreed upon PILOT. When the museum ceases operations, the Freedom Forum will violate the LURA and the real property will become taxable. The bill ensures that this taxable event does not occur. Because the District's revenue estimates do not include any real property taxes from the Freedom Forum beyond the PILOT payment, there are no costs associated with maintaining the tax exemption.

The total revenue collected by the District from the site may be impacted by the closing of the Newseum, but the closing is taking place independent of the proposed bill. After the sale to Johns Hopkins, the District will continue to collect revenue in the form of real property taxes (rather than PILOT). Johns Hopkins may apply to Office of Tax and Revenue for real property tax exemptions

³ Freedom Forum, Inc. Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004, effective April 5, 2005, (D.C. Law 15-266; D.C. Official Code § 47-1064).

⁴ Termination of the LURA prior to the transfer of the property negates the need for the District to approve the transfer.

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available to nonprofit educational institutions for the educational uses of the site, but the bill does not alter current law in this regard.

The LURA amendment to waive the use restriction as a museum will also assist in ensuring that the Freedom Forum is not in violation of any agreement with the District, but that is an administrative process that will take place separately from this legislative action.