

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Kwame R. Brown
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: September 20, 2011

SUBJECT: Revised Fiscal Impact Statement – “Office of Administrative Hearings Authority Amendment Act of 2011”

REFERENCE: Draft Bill shared with the OCFO on June 28, 2011

This revised fiscal impact statement replaces the one issued by the OCFO on September 7, 2011.

Conclusion

Funds are sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the proposed legislation. Implementing the proposed legislation is estimated to cost \$35,640 in FY 2012 and \$109,307 over the FY 2012 through FY 2015 budget and financial plan. The cost of implementation will be funded through special purpose revenue generated from the Department of Housing and Community Development’s affordable housing and condo conversion related activities.

Background

The proposed legislation amends the Office of Administrative Hearings Establishment Act of 2001¹ to allow all adjudications involving infractions of the Condominium Act of 1976² (“Condominium Act”) and the Rental Housing Conversion and Sale Act of 1980³ (“Conversion Act”) to be determined by the Chief Administrative Law Judge of the Office of Administrative Hearings (OAH). Currently, the Department of Housing and Community Development (DHCD)⁴ has the authority, but not the

¹ Effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03 (a))

² Effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code §§ 42-1903.16, 42-1904.06, 42-1904.12, 42-1904.14, and 42-1904.15)

³ Effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3405.04, 42-3405.06, 42-3405.07, and 42-3405.08)

⁴ The Rental Conversion and Sale Division within DHCD is responsible for administering the Condominium Act and the Conversion Act.

administrative capacity, to adjudicate complaints filed under the Condominium Act and Conversion Act.

The proposed legislation would transfer this authority to the OAH from the DHCD.

Financial Impact

Funds are sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the proposed legislation. Implementing the proposed legislation is estimated to cost \$35,640 in FY 2012 and \$109,307 over the FY 2012 through FY 2015 budget and financial plan. The costs represent the expenditures OAH would incur to adjudicate these additional cases each year.

It is estimated that DHCD would refer approximately 5 cases per year to OAH for adjudication. Additionally, DHCD has a backlog of 7 adjudication cases that would be referred to OAH immediately upon enactment of the proposed legislation. Given the nature and complexity of these types of cases, the cost is approximately \$4,000 per case. If the number of cases referred to OAH exceeds 5 per year, OAH will need additional resources in order to adjudicate the additional cases in a timely manner. The estimated cost is detailed below.

DHCD identified special purpose revenue from its affordable housing and condo conversion related activities that can be used to cover the costs of implementation.⁵ The Agency Fiscal Officer has confirmed that these amounts are available for the proposed use. DHCD will transfer the special purpose revenue to OAH through an Intra District transfer. As a result, the proposed legislation would not have a negative impact on the budget and financial plan.

Estimated Fiscal Impact for Office of Administrative Hearings Authority Amendment Act of 2011, FY 2012 - FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Total
Number of cases referred annually ^a	5	5	5	5	20
Current backlog of cases awaiting hearing ^b	4	3	0	0	7
Total number of cases	9	8	5	5	27
Cost per case ^c	\$3,960	\$4,029	\$4,104	\$4,183	-
Cost of implementation	\$35,640	\$32,231	\$20,522	\$20,915	\$109,307
DHCD revenue transfer to OAH	(\$35,640)	(\$32,231)	(\$20,522)	(\$20,915)	(\$109,307)
Net Fiscal Impact	\$0	\$0	\$0	\$0	\$0

Table Notes:

^a Assumes 5 cases per year would be referred to OAH. This estimate is based on DHCD's prior year caseload and assumes an increase in cases seeking an administrative hearing once OAH takes over the adjudication.

^b Assumes backlog of cases would be heard in FY 2012 and FY 2013.

^c Cost is based on an hourly rate of \$99 per hour, including indirect costs. According to OAH, each case would require 40 Administrative Law Judge hours for scheduling, status conference(s), hearing day(s), issuing interlocutory orders, issuing the final order and reconsideration to resolve each case. The costs are adjusted each year for expected step and cost of living adjustments.

⁵ These funds are deposited into the Condo Conversion (6005) Special Purpose Revenue Fund.