

February 7, 2002

Council of the District of Columbia

PUBLIC HEARINGS ON TAX LEGISLATION: BILL 14-335, BILL 14-374, BILL 14-481, BILL 14-420

**Testimony of Mary Harcar, General Counsel for the Office of Tax and Revenue,
before the Committee on Finance and Revenue**

Bill 14-335, "Fort Stanton Civic Association Real Property Tax Exemption Equitable Real Property Tax Relief Act of 2002"

Good morning, Chairman Evans and members of the Committee on Finance and Revenue. I am Mary Harcar, General Counsel for the Office of Tax and Revenue (OTR). I am pleased to present testimony today on Bill 14-335, the "Fort Stanton Civic Association Equitable Real Property Tax Relief Act of 2002."

The subject property of this bill is found within the 1700 block of Frankfort Street, SE, and it consists of lots 76 and 77 in square 5822. Our records show this property is owned by the Fort Stanton Civic Association. A deed of ownership was issued to the Association on June 13, 1983. All real property taxes have been paid in full through the second half of tax year 2001.

It is OTR's understanding that the Fort Stanton Civic Association intends to convert the subject property from vacant land to a community park. Legislative action by the Council is necessary to achieve real property tax exemption for this property. The action proposed in this bill does not meet statutory qualifications for the following reasons:

1. DC law does not allow OTR to grant a tax exemption to vacant land.
2. The property must be used for a charitable, benevolent, religious, educational or other specifically stated use, as set forth in the DC Code.
3. Park land that is owned privately is not a qualifying use for real property tax exemption under the DC Code.

Bill 14-335 would exempt lots 76 and 77 in square 5822 from all current and past year taxes, as well as future real property taxes. The bill would grant forgiveness of unpaid taxes, interest, penalties, fees and other related charges, from the period of October 1, 1985, to September 30, 2000. It also would require the District to refund any property taxes paid during that 15-year period.

This refund provision is problematic and excessive, and OTR respectfully suggests that it be deleted from the bill. First, the District's tax code prohibits a tax refund from being issued more than 3 years after the tax was paid. Next, OTR is not aware of any previous legislative action granting real property tax refunds for payments made over a 15-year period, where such taxes were properly assessed and collected. This action would be precedent-setting, and the precedent could have significant negative impact on revenue if repeated. Bill 14-355 would also have a disruptive impact on normal and orderly tax operations by requiring that OTR reverse tax liability for past years, without regard to whether prerequisites for tax exemption were present.

Finally, OTR recommends that the Council amend Bill 14-335 to tie any exemption to a specific use of the property (here as a park), and to specify that any tax exemption provision will expire if/when the property ceases to be used for that stated purpose.

That concludes my comments on this measure. I would be happy to answer any questions at this time.

Bill 14-374, "International House of Prayer For All People Equitable Real Property Tax Relief Act of 2002"

Good morning Chairman Evans, and members of the Committee on Finance and Revenue. I am Mary Harcar, General Counsel for the Office of Tax and Revenue (OTR). I am pleased to testify today on Bill 14-374, the "International House of Prayer for All People Equitable Real Property Tax Relief Act of 2002."

The property in question in Bill 14-374 is located at 1913 through 1917 Rhode Island Avenue, NE, lot 0024, square 4209. This building houses the International House of Prayer for All People, a tax-exempt

organization that has held deed to the property since February 17, 1994. The church acquired this property after moving from its previous location at 3700 Georgia Avenue NW.

Lot 0024, square 4209 is currently exempt from real property taxes, as authorized under DC Code section 47-1002 (14). The section provides exemption from property taxes for “buildings belonging to religious corporations or societies primarily and regularly used for religious worship, study, training, and missionary activities.” However, taxes were assessed for tax years 1994 through 1997, since there was no exemption in effect for that period. As stated in the bill, the owners did not apply for the exemption because they erroneously believed the previous exemption followed the church from the Georgia Avenue address to the Rhode Island Avenue location. Upon learning of the discrepancy in 1996, International House of Prayer for All People contacted OTR and requested relief from all current, past and future property tax liabilities. However, as we informed the church, OTR has no administrative authority to grant retroactive tax exemptions in situations where an entity failed to apply for the tax exemption. OTR may grant a retroactive abatement in cases where a tax exempt entity failed to submit an annual use report. Abatement of past tax liabilities for International House of Prayer would require action by the Council and would grant forgiveness of outstanding taxes for tax years 1994 through 1997.

Because this property would have been eligible for real property tax exemption if an application had been filed timely, OTR has no objection to the relief sought through this proposed legislation.

That concludes my comments on this measure. I would be happy to answer any questions at this time.

Bill 14-481, “Uptown Bakers Tax Abatement Act of 2002”

Good morning, Chairman Evans and members of the Committee on Finance and Revenue. I am Mary Harcar, General Counsel for the Office of Tax and Revenue (OTR). I am here today to present testimony on Bill 14-481, the “Uptown Bakers Tax Abatement Act of 2002.”

Bill 14-481 would provide a five-year exemption from real property taxes for several parcels of land in Northeast Washington located at square 775, lots 0001, 0022, 0032, 812, 826, and 827. The properties, also known as Uptown Bakers, have the following premise addresses and recorded uses:

Lot	Address	Use
0001	318 I Street, NE	Store
0022	4 th Street, NE	Parking lot
0032	932 4 th Street, NE	Parking lot
0812	Vacant lot	Vacant lot
0826	926 4 th Street, NE	Parking lot
0827	314 I Street, NE	Store

The bill would provide a 100 percent exemption from real property taxes for these parcels for tax year 2001. OTR records show that real property taxes have already been paid through the second half of tax year 2001. It is therefore presumed that a refund of the payments is intended, though this is not stated in the bill. The remaining exemptions would be as follows: 80% for tax year 2002; 60% for tax year 2003; 40% for tax year 2004; and 20% for tax year 2005. This type of "phase-in" tax exemption is generally used for commercial properties in economic development zones (EDZ), as permitted under DC Code sections 47-815(f) and 6-1503. It requires a Council resolution, in lieu of specific Council act. However, the subject properties are not, to our knowledge, located in an EDZ.

Unfortunately, neither the property owner nor properties appear to be eligible for the tax exemptions sought in this bill. The DC Code provides that a property may be exempted from real property taxes if it meets certain use qualifications, including that the property belongs to a non-profit entity, and is used for charitable, benevolent, religious or educational purposes.

Uptown Bakers Inc. is a registered for-profit, domestic business corporation. There is nothing in Bill 14-481 to indicate the properties would be used for a charitable purpose, or for anything other than a commercial bakery. Passage of this bill would create a special exception for a single taxpayer and could

promote the perception of unfairness for other similarly-situated commercial enterprises that would not benefit from this bill.

OTR respectfully recommends disapproval of this proposed legislation, as it would not only erode revenues but it would set a dangerous precedent in the District by granting a real property tax exemption to a for-profit, commercial property. We would be happy to work with the Council to explore alternative solutions to this bill.

Thank you for this opportunity to comment. I would be pleased to answer any questions you have.

Bill 14-420, “Simplified Sales and Use Tax District of Columbia Participation Act of 2002”

Good morning, Chairman Evans and members of the Committee on Finance and Revenue. I am Mary Harcar, General Counsel for the Office of Tax and Revenue (OTR). I am pleased to present testimony today in support of Bill 14-420, the “Simplified Sales and Use Tax District of Columbia Participation Act of 2002.”

Bill 14-420 would permit the District to participate in a nationwide effort to establish a system of simplified sales and use taxes. The bill authorizes the Mayor, Chairman of the Council, the Chief Financial Officer, and the Committee on State Taxation to appoint one delegate each to represent the District in multi-state discussions to develop an agreement to simplify and modernize sales and use tax administration. An emergency version of this measure was approved by the Council during November 2001.

The Streamlined Sales Tax Project (SSTP) is an effort created by state governments to simplify and modernize sales and use tax collection and administration. The proposals agreed upon by the participating states will be forwarded to state legislatures and, ultimately, Congress for review, and will establish uniform definitions and rates for different items within the tax base. Simplified audit and administrative procedures are currently under discussion with the goal of substantially reducing the burdens of tax collection for remote sellers. Issues of simplification, uniformity, privacy, and the incorporation of technology in the collection process are just some of the issues under consideration in this multi-faceted project.

In terms of the impact on the District, the simplification and uniformity of tax rates will ease the tax compliance burdens borne by local businesses and remote sellers for all types of commerce. OTR, which will have the responsibility for implementing the recommendations from the project, is currently responsible for administering a complex range of tax rates covering a myriad of taxable items and situations. The Streamlined Sales Tax System will provide the District the opportunity to simplify and consolidate our multiple tax rates into categories that are better understood, with definitions for taxable items that are more uniform among the states. This will make tax administration less complex for OTR to execute, provide taxpayers with a system and rates that are easier to understand, and provide businesses with a simplified system that makes the collection and remittance of sales tax less burdensome.

Finally, assuming Congress overturns the *Quill* case, which bars the imposition of state and local taxes on remote sellers, the Streamlined Sales Tax System will provide the District with increased revenues.

The SSTP is entering the final and most critical stages in drafting issue statements and final agreements for the Streamlined Sales Tax System. Some of these changes could be implemented in several states by next year. It is extremely important that District representatives continue to attend, actively participate in, and be provided with the opportunity to vote on SSTP initiatives, which may determine if, and how, the city will collect sales tax revenue in the future. It is for all of these reasons that OTR supports passage of Bill 14-420.

Thank you for the opportunity to testify before the Council on this issue.