Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Vincent C. Gray** **Chairman, Council of the District of Columbia**
FROM:	**Natwar M. Gandhi** **Chief Financial Officer**
DATE:	**November 2, 2010**
SUBJECT:	**Fiscal Impact Statement – "Samuel J. Simmons NCBA Estates No.1 Limited Partnership Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2009"**
REFERENCE:	**Bill Number 18-558, As Introduced**

This revised Fiscal Impact Statement reflects new information made available to the OCFO, and it replaces the Fiscal Impact Statement issued by the OCFO on October 5, 2010.

Conclusion

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed legislation. Implementing the proposed legislation is estimated to cost $137,500 in FY 2011 and $587,500 over the budget and financial plan period. Implementation of the proposed legislation is subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Background

The proposed legislation would amend Chapter 10 (Property Exempt from Taxation) of Title 47 (Taxation, Licensing, Permits, Assessments, and Fees) of the District of Columbia Official Code to exempt the real property described as Lot 78, Square 2855 from real property taxation as long as: 1) the real property were owned by Samuel J. Simmons NCBA No.1 Limited Partnership ("Simmons") and used for providing housing for low and moderate income elderly residents of the District; 2) the improvements on the real property were maintained by Simmons as a senior housing residential rental project; and 3) Simmons produced the required reports. It also would exempt the real property from any transfer and recordation taxes.

Currently, the real property, which consists of 174 rental apartments for low and moderate income seniors, is owned by the non-profit NCBA Housing Development Corporation of the District of Columbia (NCBA). There are plans to rehabilitate the property using both the New Issuance Bond Program (NIBP), which is administered by the DC Housing Finance Agency, and the Federal Low Income Housing Tax Credit (LIHTC) program, which is administered by the U.S. Department of Housing and Urban Development. In order to take advantage of the LIHTC program, the property is going to be transferred to the for-profit Simmons. This transfer is expected to take place in November 2010.

Financial Plan Impact

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed legislation. Implementing the proposed legislation is estimated to cost $137,500 in FY 2011 and $587,500 over the budget and financial plan period.

The property is currently exempted from real property taxation under D.C Code § 47-1002[1] as it provides housing to low and moderate income persons, and receives certain types of federal assistance. Since Simmons would continue to provide such housing and receive such funding, it could likely qualify for the same exemption (although it would have to reapply). However, because Simmons is a for-profit owner, it would not be totally exempt from making any payment: it would have to make a payment in lieu of taxes (PILOT). The PILOT would be equal to 5 percent of the gross income[2] derived from the operation of the Samuel J. Simmons NCBA Estates, which is estimated to be $3 million. The proposed legislation would waive the requirement for such a payment.

While the proposed legislation also would exempt the real property from any deed transfer and recordation taxes, this exemption would not result in a fiscal impact. First, the current property tax exemption would qualify NCBA for an exemption from deed transfer taxes (as long as the correct paperwork were filled out). Second, D.C. Official Code § 42-1102(3) (Deeds Exempt from Tax) provides an exemption from recordation taxes to entities that qualify for a property tax exemption under D.C. Official Code § 47-1002. As described in the preceding paragraph, it is assumed that Simmons would qualify for such a property tax exemption and thus for the exemption from recordation taxes. [3]

Thus, the below estimate assumes that the real property would qualify for a PILOT and would not be subject to recordation or transfer taxes.

Estimated Negative Fiscal Impact, FY 2011 – FY 2014

	FY 2011	FY 2012	FY 2013	FY 2014	Four Year Total
PILOT Forgone	$137,500	$150,000	$150,000	$150,000	$587,500

Assumptions: 1) Property is transferred in November 2010 so that the foregone PILOT would be for only 11 months in FY 2011; and 2) Gross income remains constant.

[1] See D.C Official Code § 47-1002(20)(A)(ii) and (v).
[2] See D.C. Official Code § 47-1002(20)(A)(vi)(II).
[3] Deed transfer taxes are generally billed to the seller while recordation taxes are billed to the buyer.