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: **April 13, 2011**

SUBJECT: **Fiscal Impact Statement – "The Washington Ballet Equitable Tax Relief Act of 2011"**

REFERENCE: **Bill Number 19-21, As Introduced**

Conclusion

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed legislation. The proposed legislation has a negative fiscal impact of $110,531 in FY 2011. No other impact is expected through the rest of the financial plan period.

Background

The proposed legislation would exempt[1] the real property located at 3704 Porter St. NW (Lot 19 in Square 1911), as well as any improvements thereon, from all taxation, including any interest, penalties, fees, and other related charges as long as the real property is used to carry out the purposes and activities of The Washington Ballet. The exemption would apply retroactively starting in fiscal year 2008. Additionally, the proposed legislation would exempt the transfer of the property to The Washington Ballet in 2007 from the recordation tax. Finally, it would cancel the tax sale conducted by the Office of Tax and Revenue (OTR) on December 2, 2009 for the property.

The property is currently exempt from real property tax. OTR granted the tax exemption based on the property's use as an educational institution, which is not organized or operated for private gain.[2,3]

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[1] By amending Chapter 46 (Special Tax Incentives) of Title 47 of the D.C. Official Code.
[2] D.C. Official Code § 47-1002(10).
[3] OTR denied the initial exemption filed by the Washington Ballet when it first acquired the property because the applicable requirements were not satisfied. For instance, no certificate of occupancy authorizing use of the property as a dormitory and for office space was provided to OTR. Because of the denial, real property

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. The proposed legislation would cost the District $110,531 in FY 2011. There is no other impact for the remaining of the financial plan period.

The bulk of the estimated cost is revenue reductions due to the forgiving and refunding real property taxes, recordation taxes, and fees owed by the Washington Ballet on Lot 19 in Square 1911 for fiscal years 2008 through 2010. For the period between 2008 and 2010, the total amount of real property tax owed (including penalties, interest, and fees) is $61,821. Additionally, the Washington Ballet owes $43,085 in recordation tax (including penalties, interest, and fees) for the property transfer in 2007.

Finally, because the 2008 tax liability was sold at OTR's December 2, 2009 tax sale,[4] funds would need to be deposited with OTR to reimburse the purchasers of the tax lien for attorney fees incurred in their efforts to assume ownership of the property.[5] The estimated attorney fees are approximately $5,526.[6] The estimated costs are detailed in the table below.

Estimated Fiscal Impact of Bill 19-21 - Washington Ballet Equitable Real Property Tax Relief Act of 2011, FY 2011 - FY 2014					
	FY 2011	**FY 2012**	**FY 2013**	**FY 2014**	**Four Year Total**
Real Property Tax Liability (2008-2010)[a]	$61,821	$0	$0	$0	$61,821
Attorney Fees Due[b]	$5,526	$0	$0	$0	$5,526
Recordation Tax Paid[c]	$43,085	$0	$0	$0	$43,085
Total Fiscal Impact	$110,531	$0	$0	$0	$110,531

Table Notes:

[a] This includes all real property taxes owed between 2008 and 2010, including fees, penalties, and interest.
[b] Assumes 15 months of attorney fees at a rate of $4,500 annually. Assumes fees begin accruing 6 months after the lien is purchased. If the legislation is enacted after June 2011, the amount of fees incurred would increase.
[c] Includes recordation tax owed ($30,450) and interest and penalties ($12,635) owed as of April 2011. The property transferred to the Washington Ballet on October 19, 2007 and the recordation tax was due at the time of transfer. The District's recordation tax rate is 1.45 percent of the market value; the sale price was $2.1 million.

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and recordation taxes were due. Subsequently, the Ballet obtained a certificate of occupancy and filed a new application. This application was granted effective October 1, 2010.

[4] The 2008 tax lien was sold to Redemptor Litium, LLC on December 2, 2009.

[5] According to OTR, to redeem a property, the original property owner must pay back the outstanding tax liability as well as fees incurred by the purchaser of the tax lien. The purchaser is authorized to run a title search on the property four months after purchase. After six months, the purchaser is able to file a claim for foreclosure, at which point attorney fees typically begin to accrue.

[6] Assumes the legislation is enacted on or before June 2011, and attorney fees begin accruing 6 months after the lien is purchased. If the legislation is enacted after June 2011, the amount of fees incurred would increase. According to OTR, attorney fees to range from $3,500 to $8,000 annually, depending on the law firm; therefore, attorney fees are estimated to be $4,500 annually.