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: **October 5, 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**

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 $424,295 in FY 2011 and $874,295 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 DC Housing Finance Agency, and the Federal Low

Income Housing Tax Credit (LIHTC) program. 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 2011.

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 $424,295 in FY 2011 and $874,295 over the budget and financial plan period.

The property is exempted from real property taxation under current law[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.

In addition, the proposed legislation would exempt transfer and recordation taxes. Because the property is exempt under D.C. Code § 47-1002, (Real Property-Exemptions), it would also be exempt from transfer taxes (as long as the correct paperwork were filled out). However, it would not be exempt from recordation taxes.

Thus, the below estimate assumes that the real property would qualify for a PILOT and would only be subject to recordation taxes.

Estimated Negative Fiscal Impact, FY 2011 – FY 2014					
	FY 2011	**FY 2012**	**FY 2013**	**FY 2014**	**Four Year Total**
Recordation Taxes	$286,795	$0	$0	$0	$286,795
PILOT Forgone	$137,500	$150,000	$150,000	$150,000	$587,500
Negative Fiscal Impact	**$424,295**	**$150,000**	**$150,000**	**$150,000**	**$874,295**

Assumptions

- Property is transferred in November 2010 so that the foregone PILOT would be for only 11 months in FY 2011.
- Gross income remains constant.

[1] See D.C Code § 47-1002(20)(A)(ii) and (v).
[2] See D.C. Code § 47-1002(20)(A)(vi)(II).