CITY OF BALTIMORE

Brandon M. Scott – Mayor
Zeke Cohen – Council President

Office of Council Services
Nancy Mead - Director
100 Holliday Street, Room 415
Baltimore, MD 21202

CHARTER REVIEW SPECIAL COMMITTEE

The Honorable Ryan Dorsey
CHAIR

HEARING NOTES

LO25-0038
Charter Review

Hearing Date: 12/3/2025
Hearing Start Time: 4:00 PM
Hearing End Time: 7:00 PM
Location: Du Burns Council Chamber / Webex
Total Estimated Attendance: 15

Committee Members in Attendance:

- **Chair** Ryan Dorsey
- Zac Blanchard
- Odette Ramos
- Jermaine Jones

MAJOR SPEAKERS

(This is NOT an attendance record.)

- Ty'lor Schnella – Mayor's Office of Government Relations
- Ben Guthorn –Department of Legislative Reference
- Jeff Hochstetler – City Law Department
- Comptroller Bill Henry – Office of the Comptroller

NOTES

- Chair Dorsey introduced the committee
  - During the first meeting the committee did a very brief overview of the previously discussed topics
  - During the second meeting, the committee began to delve further into the depth of those topics as well as several new ideas
  - Today, we will continue to work through the list of topics that have been gathered thus far
- The committee has been using the following process
  - Level of consensus between council and mayor
    - Polling of committee members, including administration partners
  - What is the immediacy of the need?
    - Should something be so pressing that it should be prioritized for the 2026 ballot? Or, can it wait for 2028?
    - Then, can something be practically and politically advanced

    - What is the capacity of the department of legislative reference to draft?
- CM Ramos – the previous conversation around parking benefits districts became broader than just those districts but, rather, the notion of segregating certain funds by budget, including whether and why those are done by Charter
- New topics
    - CM Ramos – change requirement in Charter mandating a meeting of the Council on the first Thursday after the first Monday in December
        - CM Blanchard – how much of the effort to remove things that don't need to be in the Charter can be put under one proposal?
            - Law Department – there is a one subject rule for ordinances but for Charter amendments, would need to check
            - Comptroller Henry – if you are discussing the removal of language extraneous to the structure of government, would think you could do one amendment to revise the entire charter
        - CM Blanchard – once we decide what goes, we can determine how to best package
        - Comptroller Henry – there is an order of operations if the goal is to winnow down to what is really necessary to run government
- Redistricting reform
    - Came from legislation from CP Cohen in the previous term
    - Chair asked that the bill drafted in the previous term be circulated to the committee
    - CM Ramos – whether wholesale reform or simply the timeframe, we should take this on
        - In terms of timing, we don't need to take this on now
    - Chair – not necessarily a 2026 imperative, also a matter of what level of detail on redistricting is currently in the Charter
    - CM Blanchard – seems to touch on the structure of government and, therefore, within the purview
        - Redistricting is currently in an odd place in the public zeitgeist, though he is supportive of independent redistricting
    - Comptroller Henry – census did not release the first results of 2020 census until April of 2021
        - The timeline for the proposal as outlined may present logistical challenges
    - Law – currently the charter indicates that the city shall be divided into 14 districts by ordinance
    - Chair – could require process by Charter but not necessarily the entire process
    - CM Blanchard – it does require that the Mayor present a plan
    - CM Ramos – it touches on the structure of government
    - CM Blanchard – agrees, instead of Mayor does XYZ, commission does XYZ and then provide further details by code
- Veto Reform
    - Chair – one veto reform measure was passed in 2018 in response to the Council being put in a position where we passed a $15/hour minimum wage and vetoed at a time where there were no council meeting between 5 and 20 days
        - At that time the Charter said the Council could only take up a veto no sooner than 5 but no later than 20 days after
        - So, there was no ability to take up a veto override

        - Amendment allowed for the Council to take up a veto override at the next meeting, if no meeting met that timeline
    - This proposal decreases the number of meetings that must occur before the mayor can decide to veto
        - And allows the council to override a veto at special meetings
    - Comptroller Henry – what has been a real impediment over the years is that the Charter does not clearly define regular meetings and the Law Department has interpreted that to be those meetings announced at the beginning of the year
        - Could add into the charter a provision that clarifies that a "regular meeting" is any meeting with a specified amount of lead time
    - Council GC – this came up during the previous redistricting cycle when the council ran out of time to override a veto
        - Allowing a sooner veto would have allowed the council to consider an override vote
    - Comptroller Henry – why are there any limits whatsoever when the council can vote to override a veto
        - The very limitation is a huge executive bias
    - Chair – what if, for example, there are not 5-20 days left in a term
    - Council GC – if you allow at a special meeting, that would not be a concern
    - Chair – most imperative thing is to allow the council to override a veto at ay time after it is delivered
        - Although, it probably should not be lingering indefinitely
    - Comptroller Henry – similarly, unsigned legislation passed on the last night of a term does not become law but is not vetoed so it cannot be overridden
        - The only remaining pocket veto option for the mayor
    - Chair – allowing the veto at any time up to a point, after delivery from the mayor
        - Some sort of reasonable framework
    - CM Jones – that focus is the primary goal but the comptroller's points on the timeline are also a concern
- Timing of budget delivery to council
    - Chair – there is certainly consensus among the council, not necessarily the administration but this is an important one
    - Comptroller Henry – we have a board of estimates in the budget process
        - Reduce the amount of time that the Board of Estimates has to consider the draft estimate from the department of finance
        - The BOE does not need a month to consider
        - At most, this should be at the next meeting – would buy an additional two weeks
    - Chair – it is drafted far sooner than when it gets to the council but goes to someone other than the council first
    - Proposal would move from May 15 to April 15
    - Comptroller Henry – should we press finance to give a preliminary estimate
    - Chair – peer counties all get their budgets at least one month (some two months) earlier than the City
    - Chair – this seems relatively straightforward
    - Revenue certification schedules – do other jurisdictions have them? What are they?
    - DLR – the charter does not require the mayor to deliver the budget to anyone, just that the BOE makes it public

        - Currently, requires delivery to city Council by BOE 45 days prior to the start of the fiscal year
    - Council GC – the goal of the previous effort was to require that the proposed ordinance of estimates be introduced to the Council sooner to allow the Council to have hearings earlier
        - Without the actual budget books, hearings would not be on the actual budget
- Revenue certification schedule
    - Council GC – looking for additional information on expected revenue to inform the budget
        - There is currently not a requirement that it be shared by a certain date
        - Certifying the revenue assumptions for the coming budget
    - Comptroller Henry – this is often the responsibility of the Comptroller
    - CM Ramos – what about quarterly updates (not charter mandated)
- Audit Timing Requirements
    - Council GC – brings Charter requirement in line with state requirements
        - State requirements annual audit delivery by state within 6 months of end of fiscal year
        - Charter is currently silent and this codifies the charter being silent
    - Chair – could this be done by ordinance
        - Council President staff – this is a state-imposed deadline that we do not meet
    - Comptroller Henry – is there a penalty for not meeting a state-imposed deadline
        - Would there be any penalty different from violating the charter?
        - DLR – the consequence is up to people who evaluate our credit worthiness
    - Chair – but, does code v. charter make any difference here
- Minor privileges reform
    - Chair – strike lots of language
        - If you want to open a business and want to hang a sign, that is a minor privilege because it is on the public right of way
        - This all goes through the BOE
    - MOGR – so where does it go?
    - Chair – basic permit handled by right of way division at DOT
    - Comptroller office – this has been a contentious issue in some neighborhoods
    - MOGR – DOT with potential appeal to BMZA
    - Chair – does not believe there is a public notice requirement to minor privileges
    - Chair – there is some consensus on this as an issue, we may need to determine what the alternative system is
    - CM Blanchard – more often than not these are not divisive
        - Whatever the solution is, should be minimally invasive
    - Chair – requests of comptroller's office data on protests on minor privileges
        - Comptroller's office – 6-10 over the past few years
        - Chair – would like to see those examples
        - Consensus on repeal from charter with ordinance for new process
- City Seal
    - Resolved, others in comptroller's office have control
- Financial Topics
    - Conditional budgeting authority
        - Chair – condition the release of funds

- In state budget – a small amount of money shall be withheld from a specific office unless that office produces XYZ (usually a report or information)
- Leveraging purse strings such that it makes it easier to do our jobs
- Currently we can do this but only with NON-city agencies (state's attorney, etc.)
- This is a critical part of how the budget process compels agencies to be responsive to legislature and the members' constituents
    - We are reasonably expected to be able to do certain things and the charter often stands in the way of very reasonable, common things

▪ Comptroller Henry – general assembly also *actually* has purse strings
- Legislator elects state treasurer
- City council used to elect the city treasurer but that was removed by the Charter Review Commission of 1963
- Can put it in the charter but there is not anything in place to actually enforce it
- May not be effective without further structural reform

▪ Chair – is this something in the charter that requires us to further meddle with the charter, could something simply be removed to allow for greater latitude by ordinance

o Procurement reform
▪ CM Ramos - Priority and consensus for the next election
- does anything need to be in the Charter
- Law – much of the administrative topics can be removed, there may be some overlap with budgetary processes

▪ Chair – asks MOGR to speak to having BOE policy document as opposed to an ordinance
- MOGR – will send current draft

▪ Comptroller Henry – when this is replaced with ordinance, asks for some reference to electronic bidding administered by the bureau of procurement
▪ CM Jones – there is no tracking of procurement and change orders
- Comptroller Henry – it is tracked in the Board of Estimates database
    - Has anyone done an analysis of how much the change orders add to final prices vs. initial bid

▪ CM Jones – best value contracting
- Move away from lowest bid, which is required in the charter
- We should be considerate of what the best value contracting code looks like as a replacement

▪ Chair – can the entire low-bid requirement be removed from the Charter
- The answer seems to be no
- This could be made as ordinance

o Biennial Audit Reform
▪ Comptroller Henry – have put in budget request for funds to expand the program
▪ Chair – is there any concern for whether this is in the Charter or ordinance
- Comptroller's office – not at all

o Remove mandated audits already covered by annual financial report

        - Comptroller Henry – a specific audit of a specific agency was not finding anything that the annual report was not already finding
    - Capital Budget Reform
        - CM Ramos – made up by the dollars that voters allow us to borrow (and state and federal money) for capital projects
            - Beginning in January the planning commission holds hearings where agencies report on their projects
            - Planning commission then make a recommendation to BOE on what the capital budget would look like
            - Council then only receives that budget at the very end of the process
            - Could have the capital budget earlier to have hearings to examine
            - Would remove planning from process and have the city council solely receive and pass the capital budget
        - Comptroller Henry – currently, finance department's budget bureau puts together operating budget and planning department does capital budget
            - Council makes ultimate decision on how they pass
            - Why take planning staff out of it
        - CM Ramos – not a matter of taking planning staff out of it, just about giving council control
        - Comptroller Henry – planning has not, to date, been taking this job as seriously as it should, the new planning director seems committed to being more thoughtful
        - Chair – there are two things here
            - Finance creates proposed operating budget which the council scrutinizes
            - Planning department staff (for planning commission) puts together the capital budget
            - We can amend either
        - DLR – Counsel is able to amend general funds that go to capital projects
        - MOGR – when will there be concrete proposals as opposed to theoreticals
    - Split-Rate Taxation Enabling
        - CM Blanchard – more commonly known as a land-value or land tax
            - The rate that you pay on the improvements on your property is 2.248 cents of every dollar, the land is the same
            - In the state of Maryland we theoretically break out the land and improvement values
            - Hypothetically, raising the rate on the land would allow for lowering the rate on the improvements for the same net amount of money
                - Winners would be homeowners and business operators
                - Losers would be vacant lot and business owners
                    - Surface parking, gas stations, etc.
            - Tax burden shifted from homeowners to less-prioritized
            - This would make it far easier to lower the tax burden on homeowners and there is enabling legislation on the state level
            - Concerns for law
                - Uniformity clause – seems to suggest land and improvements are separate classes

        - Are there any other barriers to implementation that exist in the city charter
            - Does the charter uniformity clause prevent this?
    - Chair – big fan
        - For this to work, we do need a change in tax assessments
            - More strict assessment of intrinsic value of land
    - CM Blanchard – could do it in such a way that raises revenue but, at least to start, prefers revenue neutral
        - It is actually much easier to assess land than improvements
        - There is also a broader conversation to be had about how the state assesses value
    - CM Ramos – does this need to be in the charter?
    - CM Jones – we should be considerate of legacy residents
    - Chair – the current system disincentives improvements to property
        - The value of the structure itself will maintain value more steadily
- Close out supplemental reform
    - Council GC – finance prepares close-out supplemental package to level deficit/surplus spending
        - Current determination is that the charter requires this
    - Chair – what clause in the charter is interpreted as such
        - Council GC - Charter requires that we are not in deficit and that is interpreted to mean at the agency level as well (Art. 6, Section 8)
            - But by function of charter, a surplus reverts to the general fund
            - Principal goal makes it so that at audits, agencies in deficit are reflected as being in deficit
            - Not to say the city can't do it at the agency level, just that it isn't required
        - Law – this is effectively an accounting measure
    - CM Ramos – why not, this provides transparency
    - Chair – these are the bills that say "we are transferring $X to Y"
        - One bill per program
        - As accounting and transparency measure, there could be one informational document submitted to the council in place
    - DLR – they functionally cannot do that under the charter because money is spent by the Board of Estimates
    - Chair – what is the actual problem this is solving
        - Council GC – the issue it addresses is that agencies in deficit can be artificially shown to be in balance
    - Chair – please share written proposal
    - Chair – if money has already been spent without our permission, it seems like a rubber stamp to then require us to approve it
    - Council GC – this would also provide greater transparency with respect to the actual status of the agencies – they would not show as always in balance/surplus
- Outside Counsel Reform

        - Council GC – requests (often from Police Accountability Board) to be able to appeal to an outside entity
            - Some at the PAB believe the Law department has a conflict of interest
        - Chair – this is primarily limited to the PAB
        - Comptroller Henry – this also came up in the context of the BOE's quorum rules on the conduit deal
            - Law Department opined that by not coming, those missing members had abstained
            - We have no recourse to a law department opinion
        - Law – "conflict" of interest under rules of professional misconduct does not necessarily apply because we are all under one entity
            - Not necessarily a barrier to obtaining an outside opinion
        - Comptroller Henry – could be desirable to allow the Council GC to go to a circuit court when they dispute the City Solicitor opinion
            - If you made that expansion, you could allow other agencies to come directly to you
        - Chair – what is a legally appropriate and practicable solution
        - DLR – do any other jurisdictions allow standing in circumstances where a member of the corporate entity is allowed to take their conflict to the judiciary
        - Chair – this is murky, want it in writing from the PAB/ACC
- Those offered subsequently by the chair
    - Term limits
        - Chair – likely consensus among the council
            - do not know of anyone in government opposed
            - did not benefit from any real public discourse before appearing before the voters
            - question is not whether the council would pass but, if something for 2026 vs. 2028, is there a value in doing public education
                - lots of information about why legislative term limits are bad public policy that was not widely shared or debated
        - CM Ramos – 2026 would be better because members are all facing election in 2028
            - Would be more feasible to have a discrete campaign about the issue without also doing a personal campaign
            - Also run the risks of perception of self-serving if done in 2028
        - Comptroller Henry – why not make this a 2028-2030 problem because it will not affect anyone until 2032 election
        - Chair – 2032 would make it that now freshman members would be impacted for lack of pension reform
        - CM Ramos – pension reform in last term was handled poorly
        - CM Jones – there is a large education component and more time would allow us to improve the education component
            - Typically, there are A and B groups to avoid turning over the entire council
        - CM Ramos – there is also another set of people who want to educate people and have more money
            - Do this now and get it done

        - Chair – is there enough time to do adequate public education
            - Not sure
            - This is an uphill battle – we don't have members of the public here tonight
    - Restructuring accountability for CAO to Mayor and City Council
        - Chair – the role is suggested to be apolitical and accountable but they cannot be fired
        - Comptroller Henry – they do have to be confirmed
        - Chair – but once they are confirmed, they cannot be removed
        - DLR – City administrator is an exception
            - They continue until a qualified successor is found
            - The mayor should have reappointed her
        - Chair – there is no mechanism to remove them
        - CM Jones – there is a certain level of responsiveness that our constituents expect and that is made difficult without a level of accountability from the administrator to us
            - Before the existence of the job, the mayor did the job
            - This would be, essentially, a new power for the council

---

Hearing Packet in bill file? ---------- ☒ **YES** ☐ **NO** ☐ **N/A**
Attendance Sheet in bill file? ---------- ☒ **YES** ☐ **NO** ☐ **N/A**
Agency reports read? ---------- ☐ **YES** ☐ **NO** ☒ **N/A**
Hearing televised or audio-digitally recorded? ---------- ☒ **YES** ☐ **NO** ☐ **N/A**
Certification of advertising/posting notices in the bill bile? ---------- ☐ **YES** ☐ **NO** ☒ **N/A**
Evidence of notification to property owners in bill file? ---------- ☐ **YES** ☐ **NO** ☒ **N/A**

Notes by: Ethan Navarre
Notes Date: 12/3/2025
Direct Inquiries to: ethan.navarre@baltimorecity.gov

Charter Review Committee – Split-Rate Taxation

Split-Rate Taxation, also known as a universal building exemption or land value shift, is a change to the traditional property tax system that makes it more equitable, productive, and less exploitable. The concept was proposed by economist Henry George in the late nineteenth century as a way for municipalities to recover the value created by their efforts such as infrastructure development and access to economic opportunity while discouraging speculation and rewarding those who made use of their land productively.

The traditional property tax is really two taxes: a tax on land and a tax on improvements. In the context of housing, property tax means that the more a property owner invests in improving their property (like adding an accessory dwelling unit, for example) the more tax is owed, effectively disincentivizing improvements. All the while, an adjacent vacant or unimproved parcel grows in value based on improvements to the area and the property speculator owes very little in property taxes. Improving a vacant property under the traditional property tax increases the burden of taxation, resulting in a lower return on investment compared with doing nothing. Improvements to property are exactly what we want to see more of in our city - more housing, businesses, and jobs - yet they are disincentivized under the current system.

Split-Rate Taxation creates a different taxation model--a shift in the property tax that puts more burden on the land and less on the improvements by applying a higher rate to the land. Shifting the burden of taxation makes it harder for a speculator to passively benefit from the increasing value of their property without meaningfully improving it. Meanwhile those who improve their properties by expanding businesses or adding housing are penalized less by higher taxes.

Improvement Value	**$80,000**	**$0**
Land Value	**$20,000**	**$20,000**
Property Tax (2%)	**$2,000**	**$400**
Split-Rate (4:1)	**$1,600**	**$800**
Land Value Tax (5.1%)	**$1,200**	**$1,200**

History in Maryland

Maryland's history with Split-Rate Taxation is almost as old as the book in which George proposed it, 1879's Progress and Poverty. In 1892, Hyattsville's Board of Commissioners decided to go all-in on a land value tax

(LVT), which is a split-rate tax where the land is taxed at 0%, becoming the first municipality in the country to operationalize the idea. Opponents of the change immediately challenged LVT in court, succeeding upon appeal to the State Court of Appeals, which ruled that its application was unconstitutional. This was the result of an interpretation of the "uniformity clause" in the state's constitution, which stated that taxation must be applied evenly across every taxing jurisdiction.

In 1914, Maryland amended the state's Declaration of Rights with Article 15:

> That the levying of taxes by the poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the government; that the General Assembly shall, by uniform rules, provide for the separate assessment, classification and sub-classification of land, improvements on land and personal property, as it may deem proper; and all taxes thereafter provided to be levied by the State for the support of the general State Government, and by the Counties and by the City of Baltimore for their respective purposes, shall be uniform within each class or sub-class of land, improvements on land and personal property which the respective taxing powers may have directed to be subjected to the tax levy; yet fines, duties or taxes may properly and justly be imposed, or laid with a political view for the good government and benefit of the community.

Although nearly every state has a uniformity clause, no state courts have struck down land value taxes on the basis of a uniformity since the Maryland State Court of Appeals' ruling in 1898. Maryland's Article 15 was interpreted by the state's attorney general in a 1994 opinion as being compatible with the separate taxation of land and improvements to land, saying that:

> In view of the express power of the General Assembly to classify land and improvements on land there is no uniformity objection to declaring that land and improvements on land which are not otherwise classified are separate subclassifications. Moreover, within the subclassification of improvements on land, the proportion of the actual value on which the rate is levied may be reduced, even to zero, without violating the uniformity clause.

The 1994 opinion effectively paves the way for split-rate taxation.

City Charter

Baltimore's Charter itself has a uniformity clause, 1 § 6, which states:

> The taxes levied by the City with respect to ownership of the same class of property or property rights, shall be uniform in rate throughout the entire City.

The newly formed Charter Committee tasked with reviewing the charter could leverage some of its capacity to explore whether the wording of the city's uniformity clause is in conflict with the establishment of split-rate taxation. Should there be an opinion that the city's uniformity clause, not having any classes called out specifically as in the state version, conflicts with a land value tax, the easiest path to implementation would be to remove the uniformity clause from the charter. If removed, the state's uniformity clause applies, enabling split-rate taxation.

THE SINGLE TAX INVALID

NOT PERMISSIBLE UNDER MARYLAND'S CONSTITUTION.

THE HYATTSVILLE EXPERIMENT DECLARED VOID BY THE STATE COURT OF APPEALS—AN OPINION INDORSED BY EVERY MEMBER OF THE BENCH—OPINIONS IN THIS CITY.

HYATTSVILLE, Md., March 15.—All day long joy has been unconfined among the anti-single-tax people of this town. The cause of it is the decision of the Court of Appeals, declaring the single tax unconstitutional, and asserting that the Government of the town has violated the assessment principles and precedents of the State in exempting personal property from taxation and placing all the burdens on the real estate. If there were not a reservation in the opinion, the town would be out of funds for municipal expenses, and all taxes collected during the past eight months would have to be refunded.

The single-tax fight in this town has attracted the attention of the whole world, and Hyattsville, with its 1,500 population, is better known than Baltimore, with its 500,000. It is the first town to put in practical operation the single-tax theory. The innovation was quietly accomplished about two years ago. The town election resulted in the success of a majority who were determined to try the single tax. The town in 1890 secured from the Legislature a charter which provided for the assessment of real estate and personal property as is usual in such charters. To put the single tax in effect this charter had to be amended, and the single-tax people went about it quietly and dexterously. In the Legislature of 1892 they got a new law purporting to repeal the charter of 1890. This act provided that the Assessors should assess real estate and personal property separately, and it further provided that the "Board of Commissioners hereby constituted shall be a final board of appeal, equalization, and control of said assessment, being empowered with a view for the government and benefit of the community, to make such deductions or exceptions from or addition to the assessment made by the Assessors as they may deem just, and to correct errors or illegal assessments."

Then came the fine work of the single taxers. With the separate assessments of realty and personalty they coolly deducted all the $180,000 of personal property and imposed all the taxes on the $369,709 of land. Then the trouble began. The anti-single taxers got together and prayed that a mandamus might issue, compelling the Commissioners to restore the personal property taxation and to prohibit the collection of taxes already levied. The petition was denied by the court, and the single taxers proclaimed their victory from the Patuxent to Australia.

The fight grew hot. The single taxers held that the departure was benefiting the town. The opposition pointed to the muddy streets, and declared that the cranks were ruining the town. The sentiment was about equally divided, with the most of the property owners, however, against the single-taxers. Both sides have been actively preparing for the coming election.

In the meanwhile the case in the Court of Appeals had dragged somewhat, but this morning the news of the decision came, and those opposed to single-tax theories have been beaming with happiness ever since. The landholders *who pay all the taxes are especially pleased.*

The opinion upsets the single tax absolutely in this State. It was written by Judge McSherry, one of the ablest jurists of the bench, and it was unanimously concurred in by the other members of Maryland's highest court.

THE OPINION.

Following is the opinion in full:

By the Act of 1886, Chapter 424, the General Assembly created a municipal corporation in *Prince George's County under the name of* "The Commissioners of Hyattsville." The power to levy taxes for the support of the Municipal Government was granted to these Commissioners, but the rate was restricted to 15 cents on the $100 of the assessed valuation of property. The taxable basis was declared to be the current assessment made or to be made for county purposes of the real and personal property located within the limits of the corporation. In 1890 the Legislature, by Chapter 355 of the acts passed during that session, amended that provision of the charter which related to the taxable basis, and provided that the Treasurer and two Assessors should annually assess "each and every piece of land separately, with the improvements thereon, and all personal property within said town, at a fair cash value," showing in the assessment "each piece of land and the improvements thereon separately, with the assessed value thereof, * * * and in the case of personal property, the assessed value and the name of the owner thereof."

An appeal to the Board of Commissioners by persons aggrieved by the assessment was provided for. The Act of 1892, Chapter 285, purported to repeal the act of 1890, and in lieu thereof provided that the Treasurer and Assessors should, in 1892, and biennially thereafter, assess each and every piece of land within said town separately, with the improvements thereon, at a fair cash value, and showing each piece of land and the improvements thereon separately, with the assessed value thereof, &c.

And by the succeeding section it was declared that the President of the board should give public notice of the completion of the assessment; that the assessment should thereupon be open to inspection, and that if any owner of property felt aggrieved by the assessment of his property, he might appeal to the Commissioners, and that "said Board of Commissioners are hereby constituted a final board of appeals, equalization, and control of said assessment, being empowered, with a political view for the government and benefit of the community, to make such deductions or exception from or addition to the assessment made by the Assessors as they may deem just, and to correct errors or illegal assessments. Upon the making of the deductions or exceptions, addition, correction, and final completion of the assessment roll, the Board of Commissioners shall levy a tax upon all the property remaining embraced therein, not exceeding 25 cents per annum per $100 of the valuation thereof," &c.

PETITIONS OF TAXPAYERS.

Under this statute the land included within the taxable limits of the town was assessed at $369,709, and the improvements at $180,000. Personal property was not assessed at all. When the assessment was completed, public notice was given by the President of the board "that any taxpayer considering himself aggrieved by the assessment may appeal to the Board of Commissioners of *Hyattsville* within fifteen days."

After the expiration of the time named in this notice, and though no appeal had been taken by any taxpayer, the Board of Commissioners of their own motion struck from the assessment roll the entire valuation on improvements, and levied a tax of 25 cents on each $100 of the assessed value of the land. Thereupon sundry taxpayers filed a petition praying that a mandamus might issue to compel the Commissioners to restore the valuation of improvements to the assessable basis, and to assess and include all personal property, and to prohibit the collection of the taxes actually levied.

An answer was filed, to which a demurrer was interposed, and, upon a hearing, the Circuit Court for Prince George's County overruled the demurrer and dismissed the petition for a mandamus. From that order this appeal was taken.

The adoption by the Board of Commissioners of Hyattsville of what is called the single-tax system—that is, a system under which the whole burden of taxation is imposed upon the land, and which exempts all buildings, improvements, and personal property—is the proceeding which caused the petitioning taxpayers to make this application to the courts.

It is obvious that the questions now brought before us are of more than ordinary interest, and are far from being of mere local importance. Apart from the preliminary inquiry as to whether a correct interpretation of the act of 1892, Chapter 285, warrants the exemption of all buildings and improvements in Hyattsville from municipal taxation, the broader one, involving the power of the Legislature, under the Declaration of Rights, to impose the whole burden of taxation on one single class of property, to the total exclusion of all others, is distinctly presented.

INTERPRETATION OF THE ACT OF 1892.

Now, the act of 1892 was manifestly never intended to confer—and does not in terms confer—upon the Board of Commissioners of Hyattsville the authority to exempt from taxation the buildings and improvements situated within the limits of the corporation. On the contrary, it expressly directs the Treasurer and Assessors to assess every piece of land and every building or improvement separately—that is, to assess both land and buildings, putting upon the land a valuation, and upon the building a separate valuation, precisely as the general assessment law prescribed should be done in the valuation

of the same class of property for the purposes of State and county taxation. (Act of 1876, Chapter 260, Section 17.)

Upon the completion of the assessment the Board of Commissioners were authorized, as a final board of appeals, equalization, and control, "to hear appeals and "make such deductions or exceptions from the valuations of the assessment" as they might "deem just," and to "correct errors or illegal assessments," and, upon making the deductions or exceptions, additions, corrections, and final completion of the assessment roll," they were empowered to levy a tax of not more than 25 cents on the hundred dollars "on all the property remaining embraced," in the assessment roll.

These powers, except the one relating to the actual levy, are stricken out and limited to a revision of the assessment previously made by the Assessors. The property which the Assessors are directed to assess is the land, and the labor and improvements. Both are required to be assessed, and they are to be assessed for the purposes of taxation. The Assessors' valuations are subject to revision—that is, to abatement or to increase, or, if improperly made for any reason, as, for instance, because the property is beyond or partially beyond the limits of the village, to exception or exclusion, totally or ratably. But this is not a difference in the subject-matter taxation of buildings and improvements from all taxation. Because the Commissioners may make deductions or exceptions from the Assessors' valuations, it by no means follows that they may strike out those valuations altogether.

EXEMPTIONS NEVER PRESUMED.

To make deductions or exceptions from the valuations placed by the Assessors on buildings and improvements implies that some part of the original valuation must remain, and does not mean that the entire assessment shall or can be expunged. Any other construction would not only lead to the most absurd results, but would repudiate the long and well-settled doctrine that exemptions from taxation are never presumed, and are only allowed when clearly and unequivocally granted. (Mayor and City Council of Baltimore vs. Baltimore and Ohio Railroad Company, 21 Md., 93.)

It is not to be assumed, in the absence of a clearly-expressed intention, that the Legislature designed to confer upon this board the broad power to exempt all improvements, in the face of the explicit provision that those improvements should be assessed, and assessed with a view of being included in the taxable basis. The possession of such a power under this act would necessarily give to a subsequent board the authority to reverse the policy of fixing only the land, and would permit them to exempt the land and tax only the improvements, or to tax both land and improvements. Thus one rule of taxation, instead of being fixed, would be subject to just such fluctuations as the caprice or the self-interest of successive boards might suggest.

It cannot be conceded, therefore, that the Legislature ever intended to give to this municipality—even if it had had the authority to give it—a power fraught with these mischievous consequences, and inasmuch as the language employed in the statute is susceptible of an opposite construction without straining its natural meaning, that construction which limits the said power and avoids *all conflict with* established principles must be adopted.

But beyond this there is a more important objection to the validity of the board's proceedings. The Declaration of Rights, Article XV., provides that "every person in the State, or holding property therein, ought to contribute his proportion of public taxes for the support of the Government according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid with a political view to the good government and benefit of the community."

This provision has, with a slight but not material change of phraseology, been a part of the organic law of Maryland for considerably more than a century. Its predominant object is to provide by a fixed enactment equality in taxation, and to prevent, as far as possible the burden of supporting the Government from being thrown upon some individuals to the exclusion or exemption of others, and thus avoid all discriminations, and while it remains in force the land owner, be his possessions large or small, has an absolute security against double taxes—*public taxes cannot* be imposed upon the soil alone. Buildings, improvements, and personal property are, under its terms, as liable to the assessment for taxation as land. Its theory is that the distribution of the burdens over every class of property will prevent any oppression of each individual's contribution, whereby oppressive exactions from the owners of any particular species of property will be impossible.

RUINOUS RESULTS POSSIBLE.

As those who own buildings, improvements, and personal property in all its various forms—as well intangible as tangible—are equally protected in their possessions by the State and local Government with those who own the land, the support of those governments should place no heavier charge upon the one than on the other class of individuals. This has been the uniform and consistent principle always followed in Maryland. Eminently just in itself, as a sound and long-accepted axiom of political economy. It has been incorporated in her organic law since Nov. 3, 1776; it has been upheld by her courts, and steadily and tenaciously adhered to by her conservative people. But the act of 1892, not only under the construction placed upon it by the appellees, but palpably by reason of its exemption of all personal property, attempted to overthrow this salutary principle and to disregard the fifteenth article of the Declaration of Rights, and to substitute an experimental, if not a visionary, scheme, which, if suffered to obtain a foothold, will inevitably lead to ruinous results.

By making no provision for the assessment of personal property in the village of Hyattsville and by confining the assessment to lands and improvements only, the act of 1892 undertook to exempt all personal property from municipal taxation; and if the appellees' interpretation of the act be conceded to be correct, it in like manner authorized the exemption of buildings and improvements. Thus the whole cost of conducting the municipal government in all its departments was attempted to be thrown exclusively upon the land.

If the Legislature may lawfully do this in the particular instance of Hyattsville, it may do the same thing in the case of a larger and more populous municipality, and likewise with reference to a county, and if as to one county then as to *every county* in the State. If the assessed valuations upon buildings and improvements and upon personal property be stricken from the assessment books of the several counties, and the taxes be levied only upon the owners of the land, the burden would speedily become insufferable and land would cease to be worth owning. Such a system would eventually destroy individual ownership in the soil, and, under the guise of taxation, would result in ultimate confiscation.

The wisdom of providing in the organic law against such abuses is obvious, and the provision by which the people of the State are protected against them embodies a fundamental principle which underlies the American system of taxation.

The attempt made by the act of 1892 to disregard the fifteenth article of the Declaration of Rights by exempting all personal property from assessment must prove abortive, and as the act undertakes to establish a scheme of taxation not warranted by the organic law, it must be stricken down as null and inoperative.

REASONABLE EXEMPTION.

We are not to be understood as denying to the Legislature the power, when State policy and considerations beneficial to the public justify it, to exempt within reasonable limits some species of property from taxation. A long-continued practice, nearly contemporaneous in its origin with the adoption of the Constitution itself, and many adjudged and carefully considered cases decided by this court, abundantly support that power. But a power to exempt for reasons and upon considerations which are sufficient to uphold the exemption, is not a power to nullify the Constitution of the State.

Under the pretext of granting exemptions different classes of property cannot be successively stricken from the tax lists so as to destroy the equality prescribed by the fundamental law and eventually to reduce the taxable basis to one kind of property alone. Reducing the taxable basis to land by first excluding personal property altogether, and then excepting buildings and improvements, is a perversion and not a legitimate exercise of the conceded authority to make valid exemptions.

If this be not so, then the very power to exempt might be carried to the length contended for, and it carried that far it would effectually abrogate the fifteenth article of the Declaration of Rights. It is not necessary for the decision of this case, nor would it be appropriate in this proceeding, to determine how far the Legislature may lawfully go in granting exemptions from taxation; it is sufficient to declare that the most latitudinarian construction ever heretofore contended for did not pretend to advance the position assumed by the appellees.

Nor can the act be upheld as one imposing a tax "with a political view" in contradistinction to one levying a tax for the support of the Government. While the Declaration of Rights prescribes the rule of equality in levying taxes for the support of the Government, it is careful to provide that the Legislature shall not be confined to the laying of such taxes alone. Hence it declares: "Yet, fines, duties, or taxes may properly and justly be imposed or laid with a political view for the good government and benefit of the community."

In other words, notwithstanding every person ought to contribute his just proportion of the public taxes for the support of the Government according to his actual worth in real and personal properties, still other duties or taxes of a different kind may be imposed "with a political view" for the good government of the community. (Tyson et. al. vs. the State, 28 Maryland, 57.) This is not a qualification of the antecedent clause of the fifteenth article. It is an enlargement of the power to tax.

CANNOT BE EVADED.

The two clauses of the fifteenth article of the Declaration of Rights are not alternative, but are cumulative provisions, and, consequently, when public taxes are required to be raised for the support of the Government upon a taxable basis fixed by an assessment of property valuations, they are imposed according to the standard fixed in the first clause of the article, and this standard cannot be evaded by a mere declaration that the taxes are levied "with a political view." When it is necessarily manifest that they are designed to be levied in the usual way for the support of a municipal government.

The assertion that they are taxes of the one sort when they are palpably taxes of the other class cannot make them what they are not, nor cause them not to be what they are essentially are. Taxes collected for municipal purposes are taxes imposed for the support of government, and are subject, as the constitutional prohibition against inequality. (Bayley vs. Morgan et al., 69 Maryland, 460.) But the right to levy other taxes "with a political view" is not identical with a power to exempt all personal property from taxation. The right to impose other taxes is in no sense a power to exempt at all, and this broad exemption is not an exercise of the authority to levy a tax with a political view. The power to exempt is not derived from the second clause of the fifteenth article relative to the laying of taxes with a political view, and the latter power can never be appealed to as a justification for the use of the former.

In our opinion, then, the Act of 1892, Chapter 285, is null and void, because plainly unconstitutional in its unrestricted exemption of personal property from assessment and taxation. And as the clause purporting to repeal the Act of 1890, Chapter 355, is inseparably woven into the enacted substitute, and was mainly not intended to operate as an independent provision, the act of 1892, in its entirety, must fall, and the Act of 1890 consequently still remains in force.

This brings us to the consideration of the only remaining question in the case, and that is as to the remedy. Had the application been for an injunction to restrain the collection of a tax levied under a void act of Assembly, the remedy would have been appropriate and effective. (Mayor and C. C. Baltimore vs. Gill, 31 Md., 375.) But serious objections are presented in this case to the granting of the mandamus.

The petition asks that the Commissioners of Hyattsville be commanded to reconvene to the assessment roll the valuations on improvements and buildings, and that they cause the Assessors to complete the *assessment* by an assessment of the personal property in the village, and that they be required to levy a tax of not more than 25 cents on the hundred dollars. This petition was filed July 14, 1892, and the assessment which it sought to have corrected was the assessment required by law to be made during that year, and the taxes which it sought to have levied were taxes for the year 1892. Now, the writ must issue as prayed, if it is issued at all, and it will never be ordered where, when issued, it would be nugatory. (State ex rel. O'Neill vs. Register, &c., 58 Md., 289.) Should the order of the Circuit Court be now reversed and a mandamus be issued, it would be impossible for the Commissioners of Hyattsville to obey the writ and at the same time observe the provisions of the Act of 1890, Chapter 355.

A TIME LIMIT.

No assessment was made of personal property during the year 1892, and both the period for making it and the period for levying the tax for that year have passed. Under the Act of 1890, which we have said is still in force, the assessment and levy are required to be made annually. An assessment in 1893 cannot lawfully be made for the year 1892, nor can a levy be made in 1893 which ought to have been made the previous year. With the expiration of the year during which the assessment and levy are expressly directed to be made, the authority to make them ended. Otherwise, two levies might be made in one year, and the maximum rate limited by the statute might thereby be doubled. The time fixed for making the levy is a limitation upon the power of the Commissioners to make it. (Ellicott vs. The Levy Court, 1 H. and J., 360; Kerr vs. The State, 3 H. and J., 560; The State vs. Merryman, 3 H. and J., 79; The Com. of Schools vs. Com. of Al. Co., 20 Md., 449.)

There is a wide difference between the case at bar and State ex rel. Worthington vs. County Commissioners of Baltimore County, 29 Md., 516, where it was held that the time designated for the doing of an act was not of the essence of the act to be done. But here, as in the cases above referred to, the time prescribed for levying the tax was intended to be a limitation upon the power of the officers, and a mandamus cannot properly issue to compel them to do that which by reason of the lapse of time they now have no authority to do.

While we hold that the particular relief invoked cannot under these circumstances be granted in this case, we emphatically pronounce the Act of 1892, Chapter 285, absolutely void, and any attempt hereafter to make an assessment or a levy under it may be perpetually restrained by injunction.

The order dismissing the petition will be affirmed only because it is now too late to direct the mandamus to be issued. Order affirmed, with costs.

The New York Times
Published: March 16, 1893

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL

RALPH S. TYLER
DEPUTY ATTORNEY GENERAL

ROBERT A. ZARNOCH
ASSISTANT ATTORNEY GENERAL
COUNSEL TO THE GENERAL ASSEMBLY

RICHARD E. ISRAEL
KATHRYN M. ROWE
ASSISTANT ATTORNEYS GENERAL

THE ATTORNEY GENERAL OF MARYLAND

OFFICE OF
COUNSEL TO THE GENERAL ASSEMBLY
104 LEGISLATIVE SERVICES BUILDING
90 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1991
BALTIMORE & LOCAL CALLING AREA (410) 841-3889
WASHINGTON METROPOLITAN AREA (301) 858-3889
TTY FOR DEAF - ANNAPOLIS, (410) 841-3814 - D.C. METRO, (301) 858-3814

March 9, 1994

CORRECTED COPY

The Honorable Laurence Levitan, Chairman
Senate Budget & Taxation Committee
100 Senate Office Building
Annapolis, Maryland 21401-1991

Dear Senator Levitan:

This is in response to your request for advice of counsel on whether a bill which separately classifies land and improvements and authorizes a reduced assessment on improvements violates the uniformity clause. In my judgment, there is no violation of the uniformity clause.

Senate Bill 559 amends Section 8-101(b) of the Tax-Property Article which declares real property to be a class which is divided into eight specific subclasses, such as residential, and all remaining real property. The bill amends the remainder clause to provide that all other land is a subclass and that all other improvements to that land is a subclass. The bill also amends Section 8-103(c) which provides that real property is assessed at 40 percent of its value, subject to certain exceptions. As amended, Section 8-103(c) would authorize Baltimore City, the counties, and the municipalities to "reduce or eliminate, by law, the percent of the assessment of improvements to land that is subject to the county or municipal property tax." In discussing the matter with Douglas Mann of the committee's staff, it is my understanding that the intent is to allow a local government to reduce, even to zero, 1/ the percent

---

1 Although the bill literally refers to eliminating the percent of assessment of improvements that is subject to tax, it is my understanding that there is no intent to (continued)

of actual value which is the assessed value of improvements which are separately classified from land. 2/

In relevant part, the Uniformity Clause of the State Constitution provides that the General Assembly shall provide by uniform rules for the separate assessment, classification and subclassification of land, improvements on land and personal property. All taxes levied by the State, counties and Baltimore City shall be uniform within each classification or subclassification of property which is subject to the levy. Art. 15, Md. Decl. of Rts. This clause has been understood to require that land and improvements on land be assessed separately. Moreover, it authorizes the classification of land, improvements on land and personal property. Rosecroft Trotting and Pacing Association, Inc. v. Prince George's County, 298 Md. 580, 587-588 and 590 (1984). Within each taxing jurisdiction and within each classification, each taxpayer's property is to be assessed at the same proportion of market value (or actual worth) and the same tax rate is to be applied. 62 Opinions of the Attorney General 54, 56 (1977), 63 Opinions of the Attorney General 30, 34 (1978) and Opinions of the Attorney General 3, 4 (1979). So long as the percent is the same within a class, the uniformity clause allows the proportion of the actual value which represents the assessed value to be altered. 62 Opinions of the Attorney General 54, 65-66 (1977). Moreover, so long as it serves a public purpose, the General Assembly has broad power to provide for the exemption of property. Murray v. Comptroller, 241 Md. 383, 392-393 (1966).

In view of the express power of the General Assembly to classify land and improvements on land there is no uniformity objection to declaring that land and improvements on land which are not otherwise classified are separate subclassifications. Moreover, within the subclassification of improvements on land, the proportion of the actual value on which the rate is levied may be reduced, even to zero, without violating the uniformity clause.

Very truly yours,

Richard E. Israel

Richard E. Israel
Assistant Attorney General

REI:ss
cc: David M. Lyon
Douglas Mann

---

allow improvements to be assessed at full market value which would be the result if the percent were eliminated.

2 The evident intent is that the land and improvements which are otherwise classified, such as residential property, would not be separately classified and assessed.