CITY COUNCIL RESOLUTION: 23-0414
RACIAL EQUITY IMPACT ASSESSMENT
PROPERTY TAX REFORM WORK GROUP
(1ST READER)

TO: The Honorable Nick Mosby, President, Baltimore City Council
FROM: Dana Petersen Moore, Director, Office of Equity and Civil Rights
DATE: 09/19/2023

COMMITTE
Finance and Performance Committee

BILL SUMMARY
City Council Resolution 23-0414 has been introduced for the purposes of forming an interdepartmental work group, staffed by the Council President's Office, to study and make recommendations for reforms to the City's property tax credit system.

CONCLUSION
The formulation of a work group tasked with conducting an in-depth study and proposing reforms for the existing property development tax credits in Baltimore City **will likely make progress towards racial equity in the allocation of tax credits through the city's property tax credit programs.**

FURTHER CONSIDERATIONS

- The resolution, in its current form, does not call for representatives from communities historically impacted by the city's inequitable allocation of property tax credits through its property tax credit programs. To ensure a more just and inclusive reform process, it is imperative for the Council President's Office to take deliberate steps towards incorporating representatives from communities historically impacted by the city's inequitable allocation of property tax credits into the work group. Excluding them from the reform process could result in distrust, as these communities have borne the brunt of the current system's inequities, which were established and are presently managed by government officials. Engaging these communities in the reform discussions is not only a matter of transparency but also a crucial step in crafting meaningful reforms that rectify past injustices and create a more equitable property tax credit system that benefits all residents, regardless of their historical circumstances.

- The Vice-Chair of the work group should be a member of the City Council who represents a council district that has been negatively impacted by the city's inequitable allocation of property tax credits through its property tax credit programs, or alternatively, a community representative who can provide insights and advocate for communities historically harmed by the existing system. Presently, the vice-chair of the work group represents a council district where several neighborhoods have been routinely identified as the top recipients of tax credits through the City's property tax credit programs.

- Some time ago, the Mayor announced the creation of a group with a mission and composition similar to that proposed by City Council Resolution 23-0414. There is no indication that the administration is not continuing with its efforts. The existence of two separate groups with identical goals – reforming the City's property tax credit programs – could potentially be counterproductive and could inadvertently hinder the very communities that stand to benefit the most from much-needed program reforms. In light of this, if the administration is indeed pursuing similar objectives, we recommend the amalgamation of both groups into a single entity where representation from both the City Council and the community is ensured. This would optimize the use of city resources, such as agency personnel and time, in a more efficient and coordinated manner.

Content Warning: The document you are about to read is a Racial Equity Impact Assessment ("REIA"), a careful and organized examination of how City Council Resolution 23-0414 will affect different racial and ethnic groups in Baltimore City. We hope that this assessment sparks a conversation that is brave, empathetic, thoughtful, and open-minded.

Trigger Warning: The following REIA touches on issues that may trigger a strong emotional response. The Office of Equity and Civil Rights encourages you to use this knowledge in the way that is most helpful to you.

Formatting Note: This REIA may differ from previous assessments authored by our office. We continuously strive to enhance our equity assessments, incorporating innovative methods and refining our approach daily. We value collaboration and welcome any suggestions to strengthen our assessments.

Analysis by: **Ty'lor Schnella, Legislative Liaison, Office of Equity and Civil Rights**

Direct inquiries related to this REIA to Tylor.schnella@baltimorecity.gov

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BACKGROUND

To analyze the racial equity impacts of this resolution, it is critical to understand the context surrounding the issue. Below, we provide background pertinent to the topic of City Council Resolution 23-0414.

There may be omissions of relevant information related to these topics. We encourage you to dive further into research on your own or by using the footnotes provided herein as a starting point.

Bureau of the Budget and Management Research

The Baltimore City Bureau of the Budget and Management Research (BBMR) is responsible for overseeing the city's budget, conducting research on fiscal matters, and providing guidance throughout the budget process to ensure the effective allocation of resources for the betterment of the city and its residents.

Key responsibilities and functions of the Baltimore City Bureau of the Budget and Management Research include:

1. **Budget Development:** One of the primary functions of BBMR is to develop and manage the city's budget. This involves working closely with various city agencies to understand their funding needs and priorities, as well as analyzing revenue projections to create a balanced budget that meets the city's financial goals.
2. **Financial Analysis:** BBMR conducts financial analysis to evaluate the fiscal health of the city. This includes monitoring revenue trends, expenditure patterns, and debt management. By assessing the city's financial status, BBMR is able to make recommendations to improve financial stability and sustainability.
3. **Performance Measurement:** BBMR is also responsible for assessing the cost-effectiveness and revenue-generating capabilities of City programs and services while also striving to maintain high levels of citizen satisfaction. In 2012, BBMR initiated management research projects for specific City services to ensure their efficient and effective implementation.
4. **Capital Planning:** The bureau plays a vital role in the city's capital planning process, which involves long-term infrastructure projects and investments. BBMR ensures that these projects align with the city's strategic goals and are financially feasible.

Municipal Tax Credits and Abatements

In the Fiscal 2022 budget, Baltimore City allocated $126.7 million to fund its sizeable portfolio of tax credits, representing nearly 14% of the city's total real property tax revenue.[1] Baltimore City is not unique in its employment of a tax credit program. Many cities across the United States employ tax credits for various purposes, driven by their economic, social, and developmental objectives. If used prudently and in an equitable manner, tax credits have the ability to stimulate investment, create wealth, spur development, and boost employment, ultimately leading to the creation of new taxable revenue streams.

[1] BBMR Report: A Comprehensive Review of the City's Current Tax Credit Programs (August 2022)

However, this has not been the case in Baltimore City. According to BBMR's *Comprehensive Review of the City's Tax Credit Programs*, the City's current tax credit system is extremely inequitable and the benefits of the tax credit program favors the "stronger and more established neighborhoods."[2] To be clear, the "stronger and more established neighborhoods" mentioned in BBMR's assessment are those neighborhoods that are predominantly and historically white and wealthy (e.g., Canton, Guilford, Roland Park, and Mount Washington). These neighborhoods do not and have not experienced intentional disinvestment, over-policing, food apartheid, and many other issues keeping Black and low-income neighborhoods in Baltimore City from actualizing economic growth and development.

Instead, the predominantly and historically white and wealthy neighborhoods of Baltimore City have thrived while some parts of the city exist in a persistent state of decline. In fact, when looking at the city's tax credits collectively, BBMR found that homeowners in white and wealthy neighborhoods are paying a lower effective tax rate than homeowners in Black neighborhoods.[3] This highlights a significant disparity – in predominantly white and affluent neighborhoods, homeowners benefit from higher property values yet pay lower property taxes, whereas in predominantly Black neighborhoods with lower property values, homeowners end up paying a higher proportion of their property's value in property taxes. This is an indication that the City's tax credit program has been deployed in a manner that uplifts certain neighborhoods to the detriment of other neighborhoods. Consequently, this has perpetuated historic harms, inhibited wealth building, and prohibited economic growth and development in other parts of the city.

Property Tax Rate net of Credits on Residential Property

Neighborhood	# of Properties	Effective Tax Rate
Brewers Hill	762	1.72%
Hampden	3,095	1.80%
Canton	6,142	1.85%
Riverside	2,997	1.89%
Federal Hill	1,143	2.04%
Charles Village	1,313	2.05%
Morrell Park	1,700	2.10%
Ellwood Park	1,297	2.11%
Belair-Edison	6,160	2.12%
Brooklyn	2,762	2.13%
Carrollton Ridge	2,017	2.18%

Source: BBMR

[2] BBMR Report: A Comprehensive Review of the City's Current Tax Credit Programs (August 2022)
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The City's current tax credit program stands in stark contrast to the principles that underlie the concept of tax credits. In essence, tax credits should be a tool for directing financial relief and resources to neighborhoods that need them most, fostering equity, and promoting social and economic justice. However, in its current form, the city's tax credit program appears to be operating as the antithesis of these ideals.

Rather than effectively targeting tax credits to underprivileged neighborhoods, the program seems to disproportionately benefit wealthier neighborhoods. This creates a situation where the city is effectively subsidizing affluent neighborhoods, enabling them to amass even more wealth. This outcome runs counter to the fundamental purpose of tax credits, which should prioritize aiding those neighborhoods that are economically disadvantaged and in need of support.

The unintended consequence of this misalignment is the exacerbation of existing disparities in income, wealth, and opportunity. Neighborhoods that are already well-off receive additional financial advantages, while those facing economic challenges are left with limited resources to address their pressing needs. This not only perpetuates inequality but also hampers the City's efforts to achieve a fair and inclusive city where all residents have an equal chance to thrive.

Addressing this issue requires a reevaluation of the City's tax credit program to ensure that it genuinely serves its intended purpose of promoting social and economic equity. Redirecting these resources to neighborhoods that need them most can help break the cycle of wealth accumulation in already prosperous areas and contribute to a more just and balanced distribution of opportunities and benefits throughout the city. In doing so, the city can work toward creating a fairer and more inclusive future for all its residents.

Property Tax Credit Overview

Here we will provide an overview for the Homestead, Targeted Homeowners, Newly Constructed, Historic Restoration and Rehabilitation, High-Performance Market-Rate Rental Housing, Brownfields, and Enterprise Zone Tax Credits. Information from this section has been pulled from the Ernst and Young report.

<u>*Homestead Tax Credit*</u>

The Homestead Tax Credit was created to limit the annual increase in property tax liability for owner-occupied housing. Following the real estate price trend, the tax credit grew rapidly to its peak in FY2010 and declined after FY2010. Due to its percentage-based structure and relatively low cap rate (4%), the tax credit tends to benefit higher-valued properties, which generally experience greater absolute and proportionate value growth, promoting vertical inequity within the owner-occupied category of residential properties with different housing values. Local jurisdictions can choose a Homestead cap between 0% and 10% per State law. The City set its cap at 4% in 1990, one of the lowest among neighboring counties.

Targeted Homeowners Tax Credit (THTC)

Every owner-occupied residence eligible for the Homestead Tax Credit can apply for this credit which is based on the improved structural value of the property. The THTC was conceived as part of the City's 10-Year Financial Plan and was considered a crucial first step in reducing the City's tax burden for residential owner-occupied properties. The cost of the credit has grown each year as planned, per the intention to phase in the program between FY2013 and FY2020. According to the City, the program achieved its goal of a 20-cent reduction in FY2020 and has remained at that effective level in FY2021 and FY2022. The THTC is considered an efficient tax credit since it delivers a lower effective tax rate for all owner-occupied residential properties. Nevertheless, for owner-occupied residential properties with low improvement values, the THTC does not significantly reduce the property tax burdens for homeowners who may find property tax to be burdensome.

Newly Constructed Tax Credit (NCTC)

The Statewide NCTC expired at the end of FY2019. As a stop-gap measure, the City Council created a new credit under the High-Performance law. This credit, the High-Performance Newly Constructed Tax Credit, is intended to serve as a replacement for the NCTC, while re-authorization of the original NCTC is considered by the General Assembly. Historically, the NCTC application and grants tracked directly with neighborhoods that have seen significant new construction activities. This includes some traditionally stable neighborhoods such as Canton and the Inner Harbor, but also has extended to other neighborhoods such as Uplands, Greektown, Hampden, and Greenmount West. Nearly 50% of the value of all 2019 NCTCs were granted to the top five neighborhoods, which were generally considered to be affluent neighborhoods. The Newly Constructed Tax Credit incents new construction of owner-occupied properties. Due to a construction surge before the Great Recession, the NCTC reached its peak in FY2010. The NCTC is likely to be vertically regressive if the developers and purchasers of newly built homes, who benefit from the program, are of higher income compared to average residents. In the NCTC recipients survey, 66.4% of home buyers reported that they knew about the credit prior to purchasing a home while the remaining 33.6% of homebuyers did not know about the credit, and in turn did not influence their homebuying decision.

Historic Restoration and Rehabilitation Tax Credit (CHAP)

The Historic Restoration and Rehabilitation Tax Credit (CHAP) is a Statewide optional credit that was first established in Baltimore City in 1996 to incent the restoration of historic properties. The CHAP has grown steadily over the last twelve years due to the continuous addition of new historic designations. The cost of the credit somewhat declined beginning in 2017 due to tighter restrictions that were placed on projects greater than $5 million. From a housing and redevelopment perspective, it is not clear that historic designation is synonymous with areas in need of the greatest development. Historical data shows that the credit has generally concentrated in neighborhoods with high average per-capita incomes. Although the credit is available to all neighborhoods with a historic designation, market incentive for new development is generally higher in already-established neighborhoods, where potential for investment returns is strong, than in low-income neighborhoods.

High-Performance Market-Rate Rental Housing Tax Credit (HPMRRTC)

This tax credit primarily had two components: the "Targeted" HPMRRTC and the "City-wide" HPMRRTC. The Targeted HPMRRTC, which expired in 2019, was designed to encourage construction and rehabilitation in the City's downtown neighborhoods, whereas the City-wide HPMRRTC, which is set to expire in December of 2022, is not restricted to any geographic area. As of FY2020, there were thirteen properties built that utilized the Targeted HPMRRTC and ten properties built that utilized the City-wide HPMRRTC. This credit is likely to increase the upper-scale housing development and decrease the smaller-scale housing development. As a result, this credit can cause the lowest-valued rental properties to be forced out of the market and may not contribute much to the net housing supply.

Brownfields Tax Credit

The Brownfields Tax Credit is a Statewide optional tax credit, established as a part of Maryland's Smart Growth policy in order to promote economic development by encouraging the redevelopment of contaminated sites. Between FY2017 and FY2019, the credit grew significantly for residential use. The distribution of this credit tracks closely with the City's Enterprise Zones, due to the extended benefit granted for properties located in these zones. The top five neighborhoods (Fells Point, Canton IA, Inner Harbor, Riverside, and Carrol Camden IA) account for 73% of the tax credit cost in 2019. Most of these areas are considered to be among the most affluent neighborhoods in the City. Brownfield redevelopment can promote vertical equity if redeveloped properties receiving mitigations are concentrated in low-income neighborhoods; however, the tax benefit receivers usually have market incentive to develop in more affluent areas, where the potential for return on investment is high. According to the City, the Brownfields Tax Credit is now being used in place of other tax credits that provide a better net return to the City. The Brownfields credit is duplicative of other residential tax credits and does not appear to be urgently needed for commercial development. Additionally, due to the requirement that the City must contribute to the State when the credit is used, the Brownfields credit is not cost-effective from the City's perspective.

Enterprise Zone (EZ) Tax Credit

The EZ Tax Credit is a Statewide mandatory2 credit established in 1982 to encourage targeted investment in economically distressed areas as measured by unemployment, poverty status, population decline, or property abandonment. The Enterprise Zone Tax Credit provides benefits to properties in the industrial zone and has experienced a significant increase in credit volume ($) from FY2007 to FY2019. This credit can transfer economic activity from other areas to the Enterprise Zones. EZs could be equity-enhancing if the zoning targets areas with low-income residents and the need for redevelopment. However, the equity benefit would ultimately erode if the benefits accrue to landowners who are not City residents and if the construction activities benefit non-local contractors and construction workers. On the other hand, the Enterprise Zone Tax Credit is the only City tax credit that receives partial reimbursement from the State. By law, the State must reimburse the City for 50% of the cost. Since the City's foregone taxes are only half of the credit that its taxpayers benefit from, the EZ Tax Credit, regardless of the inefficiencies in its distribution, is considered more cost-effective to the City than other credits.

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It is within this context that the Office of Equity and Civil Rights analyzes City Council Resolution 23-0414.

SECTION 1: TAX CREDIT REFORM WORK GROUP

City Council Resolution 23-0414 calls for the forming of an interdepartmental work group with the primary objective of conducting an in-depth study and proposing reforms for the existing property development tax credits in Baltimore City. This work group will be staffed by the Council President's Office, with Councilman Bullock, the Chair of the City Council Finance and Performance Committee, serving as its chair, and Councilman Costello, Chair of the City Council Ways and Means Committee, as the vice-chair. The work group will draw its expertise from various city departments, including the Office of Equity and Civil Rights, the Department of Finance, the Department of Planning, the Baltimore Development Corporation, and the City Administrator's Office.

Racial Equity Impacts

- **The formulation of a work group tasked with conducting an in-depth study and proposing reforms for the existing property development tax credits in Baltimore City will likely make progress towards racial equity in the allocation of tax credits through the city's property tax credit programs.**

As previously noted within this report, the city's existing tax credit system exhibits a notable degree of inequity, with the advantages of the program disproportionately favoring the "stronger and more established neighborhoods." Recognizing this issue, the establishment of this work group represents a significant and purposeful stride in the direction of overhauling the city's property tax credit programs to infuse them with greater equity and direct their benefits toward neighborhoods in the greatest need.

The formation of this work group reflects a commitment to addressing the root causes of disparities in resource allocation and economic opportunities throughout the city. By proactively examining and proposing reforms to the existing tax credit programs, the city seeks to redress historical imbalances and create a more level playing field. This initiative acknowledges the imperative of prioritizing those neighborhoods that have long been under-resourced and underserved, ensuring that the benefits of tax credits align with a broader vision of social and economic justice.

This work group represents a positive step forward in the city's ongoing efforts to construct a fairer, more inclusive, and equitable city, where all residents, regardless of their neighborhood's historical advantages or disadvantages, can have access to the opportunities and support they need to flourish. It underscores the city's commitment to leaving no community behind and striving for a more balanced and just future for all. but also compiling recommendations for reforms to the property tax credit programs.

Further Considerations

- The resolution, in its current form, does call for representatives from communities historically impacted by the city's inequitable allocation of property tax credits through its property tax credit programs. To ensure a more just and inclusive reform process, it is imperative for the Council President's Office to take deliberate steps towards incorporating representatives from communities historically impacted by the city's inequitable allocation of property tax credits into the work group. Excluding them from the reform process could result in distrust, as these communities have borne the brunt of the current system's inequities, which were established and are presently managed by government officials. Engaging these communities in the reform discussions is not only a matter of transparency but also a crucial step in crafting meaningful reforms that rectify past injustices and create a more equitable property tax credit system that benefits all residents, regardless of their historical circumstances.

- The Vice-Chair of the work group should be a member of the City Council who represents a council district that has been negatively impacted by the city's inequitable allocation of property tax credits through its property tax credit programs, or alternatively, a community representative who can provide insights and advocate for communities historically harmed by the existing system. Presently, the vice-chair of the work group represents a council district where several neighborhoods have been routinely identified as the top recipients of tax credits through the City's property tax credit programs.

- Some time ago, the Mayor had announced the creation of a group with a mission and composition similar to that proposed by City Council Resolution 23-0414. However, there has been no indication that the administration is not continuing with its efforts as well. The existence of two separate groups with identical goals – reforming the City's property tax credit programs – could potentially be counterproductive and could inadvertently hinder the very communities that stand to benefit the most from much-needed program reforms. In light of this, if the administration is indeed pursuing similar objectives, we recommend the amalgamation of both groups into a single entity where representation from both the City Council and the community is ensured. This would optimize the use of city resources, such as agency personnel and time, in a more efficient and coordinated manner.

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Equity and Civil Rights

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ASSESSMENT LIMITATIONS

Alongside the analysis provided above, the office of Equity and Civil Rights encourages readers to keep the following limitations in mind:

Assessing legislation's potential racial equity impacts is a rigorous, analytical, and organized undertaking—but it is also an exercise with constraints. It is impossible for anyone to predict the future, implementation does not always match the intent of the law, critical data may be unavailable, and today's circumstances may change tomorrow. Our assessment is our most educated and critical hypothesis of the bill's racial equity impacts.

This assessment aims to be accurate and useful, but omissions may exist. Given the density of racial equity issues, it is unlikely that we will raise all relevant racial equity issues present in a bill. In addition, an omission from our assessment should not: 1) be interpreted as a provision having no racial equity impact or 2) invalidate another party's racial equity concern.

Regardless of the Office of Equity and Civil Rights' final assessment, the legislation can still pass. This assessment intends to inform the public, Councilmembers, Council staff, and any other interested parties about the legislation through a racial equity lens. However, this assessment is not binding on the sponsor of the legislation, the City Council, or any other applicable parties.