

For Internal Use Only



**BALTIMORE CITY COUNCIL
WAYS AND MEANS
COMMITTEE**

Mission Statement

The Committee on Ways and Means (WM) is responsible for ensuring taxpayer dollars are expended prudently and equitably. WM will exercise regular oversight of the City's budget, expenditures, loans, and other financial matters. The committee's areas of jurisdiction include: budget & appropriations, taxation, financial services, consumer protection, audits, and the Comptroller's Office.

**The Honorable Eric T. Costello
Chairman**

PUBLIC HEARING

**Tuesday, November 12, 2024
10:09 AM**

COUNCIL CHAMBERS

Council Bill #24-0608

**Real Property Tax - Affordable and Inclusionary Housing - Mandatory
Reporting**

CITY COUNCIL COMMITTEES

ECONOMIC AND COMMUNITY DEVELOPMENT (ECD)

Sharon Green Middleton, Chair
John Bullock – Vice Chair
Mark Conway
Ryan Dorsey
Antonio Glover
Odette Ramos
Robert Stokes
Staff: Anthony Leva (410-396-1091)

WAYS AND MEANS (W&M)

Eric Costello, Chair
Kristerfer Burnett
Ryan Dorsey
Danielle McCray
Sharon Green Middleton
Isaac “Yitzy” Schleifer
Robert Stokes
Staff: Niya N. Garrett (410-396-1268)

PUBLIC SAFETY AND GOVERNMENT OPERATIONS (SGO)

Mark Conway – Chair
Kristerfer Burnett
Zeke Cohen
Erick Costello
Antonio Glover
Phylicia Porter
Odette Ramos
Staff: Anthony Leva (410-396-1091)

FINANCE AND PERFORMANCE (FP)

John Bullock, Chair
Eric Costello, Vice Chair
Isaac “Yitzy” Schleifer
Danielle McCray
Phylicia Porter
Staff: Marguerite Currin (443-984-3485)

COMMITTEE OF THE WHOLE (COW)

President Nick Mosby, Chair
All City Council Members
Staff: Larry Greene (410-396-7215)

EDUCATION, WORKFORCE, AND YOUTH (EWY)

Robert Stokes – Chair
John Bullock
Zeke Cohen
Antonio Glover
Sharon Green Middleton
Phylicia Porter
James Torrence
Staff: Deontre Hayes (410-396-1260)

HEALTH, ENVIRONMENT, AND TECHNOLOGY (HET)

Danielle McCray – Chair
John Bullock
Mark Conway
Ryan Dorsey
Phylicia Porter
James Torrence
Isaac “Yitzy” Schleifer
Staff: Deontre Hayes (410-396-1260)

RULES AND LEGISLATIVE OVERSIGHT (OVERSIGHT)

Isaac “Yitzy” Schleifer, Chair
Kristerfer Burnett
Mark Conway
Eric Costello
Sharon Green Middleton
Odette Ramos
James Torrence
Staff: Richard Krummerich (410-396-1266)

LEGISLATIVE INVESTIGATIONS (LI)

Eric Costello, Chair
Sharon Green Middleton, Vice Chair
Isaac “Yitzy” Schleifer
Robert Stokes
Danielle McCray
Staff: Marguerite Currin (443-984-3485)



BILL SYNOPSIS

Committee: Ways and Means

Bill 24-0608

Real Property Tax - Affordable and Inclusionary Housing - Mandatory Reporting

Sponsor: *President Mosby*
Introduced: *October 21, 2024*

Purpose: For the purpose of requiring the Departments of Housing and Community Development and Planning to submit a joint report to the City Council prior to seeking the approval of the Board of Estimates of an agreement between the City and an owner or owners of a qualifying affordable or inclusionary housing development that provides for the payment to the City of a negotiated amount in lieu of the payment of City real property taxes for a set term of years.

Effective: 30th day after enacted.

Agency Reports

Law Department	Unfavorable
Department of Housing and Community Development	None as of this writing
Housing Authority	None as of this writing
Department of Planning	None as of this writing
Board of Municipal and Zoning Appeals	None as of this writing
CHAP	None as of this writing
Finance	None as of this writing

Must be referred to Board of Estimates

Analysis

Current Law

Baltimore City Code

Article 28 – Taxes

Sections 9-6 – Affordable and inclusionary housing

Background

If enacted, this bill would require the Departments of Housing and Community Development and Planning to submit a joint report to the City Council before seeking the approval of the Board of Estimates of an agreement between the City and an owner(s) of a qualifying affordable or inclusionary housing development that provides for the payment of the City of a negotiated amount instead of the payment of City real property taxes for a set term of years.

Additional Information

Fiscal Note: None

Information Source(s): City Code, Bill 24-0608, Baltimore Sun, and all agency reports and correspondence received as of this writing.

Analysis by: Niya N. Garrett Direct Inquiries to: (410) 396-1268

Analysis Date: November 7, 2024

AGENCY REPORT

BILL # 24-0608

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

EBONY M. THOMPSON, ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

October 24, 2024

The Honorable President and Members
of the Baltimore City Council
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 24-0608 – Real Property Tax – Affordable and Inclusionary
Housing – Mandatory Reporting

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 24-0608 for form and legal sufficiency. The bill would add subsection (6) to existing Section 9-6(c) of Article 28 (Taxes) of the Baltimore City Code.

There are several problems with this bill. The first is that Section 9-6 of Article 28 of the City Code, which was enacted by Ordinance 07-474, has sunset and is no longer effective. See City Ordinance 20-367 (extending sunset date for Ordinance 07-474 until June 30, 2022). It was replaced by Ordinance 24-308. The provisions of that Ordinance provide for review of plans for Inclusionary Housing prior to permit issuance. City Code, Art. 13, § 2B-22(c). The City's Affordable Housing program is separate and administered by the Commissioner of the Department of Housing and Community Development. City Code, Art. 13, § 2A-3.

Moreover, Section 9-6 of Article 28, as noted in its subsection (f), restated that the City's ability to grant a property tax exemption is "contingent on the enactment and continuation of State legislation that authorizes the exemption." City Code, Art. 28, § 9-6(f); City Charter, Art. II, § (39)(c)(only home rule exemption power given to the City by the General Assembly is for tools and manufacturing equipment as tangible personal property). In the State Tax-Property Article, "the governing body of the county or of a municipal corporation in those counties or the Mayor and City Council of Baltimore City may authorize, by law, an exemption from county or municipal corporation property tax . . . and provide for a negotiated payment in lieu of the tax" ("PILOT"). Md. Code, Tax-Prop., § 7-501(b). The Tax-Property Article of the Maryland Code is clear that for the Mayor and City Council of Baltimore, the "governing body" is the Board of Estimates. Md. Code, Tax-Prop., § 1-101(n). Thus, the Board of Estimates approves any PILOT agreements. Under the City Charter, it has the authority to determine what documents and information it wishes to review before granting such an agreement. City Charter, Art. VI, §2. Should the Board of Estimates grant a PILOT agreement for real property, then the City's Department of Housing and Community Development ("DHCD") could evaluate its ability to be the source of payment for Inclusionary housing units that would require an Inclusionary Housing Plan. City Code, Art. 13, § 2B-1(h)(2).

If the goal is to have reporting to the City Council about Inclusionary or Affordable Housing programs, then the City Council should amend the laws in effect on those programs. City

Code, Art. 2A, 2B. Currently, the law requires the DHCD Commissioner to report to the Mayor and City Council annually about both the Affordable Housing and Inclusionary Housing Programs. City Code, Art. 13, §§ 2A-6.; 2B-16.

As drafted, the Law Department cannot approve the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Ashlea Brown, Chief Solicitor
Michelle Toth, Assistant Solicitor
Desiree Lucky, Assistant Solicitor

**CITY OF BALTIMORE
COUNCIL BILL 24-0608
(First Reader)**

Introduced by: President Mosby
Introduced and read first time: October 21, 2024
Assigned to: Ways and Means Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Board of Estimates, Department of Housing and Community Development, Housing Authority of Baltimore City, Department of Planning, Commission for Historical and Architectural Preservation, Department of Real Estate, Board of Municipal and Zoning Appeals

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Real Property Tax – Affordable and Inclusionary Housing – Mandatory Reporting**

3 FOR the purpose of requiring the Departments of Housing and Community Development and
4 Planning to submit a joint report to the City Council prior to seeking the approval of the
5 Board of Estimates of an agreement between the City and an owner or owners of a qualifying
6 affordable or inclusionary housing development that provides for the payment to the City of a
7 negotiated amount in lieu of the payment of City real property taxes for a set term of years.

8 BY adding
9 Article 28 - Taxes
10 Section 9-6(c)(6)
11 Baltimore City Code
12 (Edition 2000)

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
14 Laws of Baltimore City read as follows:

Baltimore City Code

Article 28. Taxes

Subtitle 9. Exemptions

18 **§ 9-6. Affordable and inclusionary housing.**

19 . . .

20 (c) *Exemption granted.*

21 A redevelopment project or new residential rental development project is exempt from
22 Baltimore City real property taxes if, in accordance with the rules and regulations adopted
23 under this section:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 24-0608

- 1 (1) the owner or owner or the owners of the project have filed an application for the
2 exemption within the time period specified by the rules and regulations adopted
3 under this subtitle;
- 4 (2) the City determines that the project is a qualifying development meeting the
5 requirements of this section;
- 6 (3) the City determines that the exemption is necessary to offset the owner's or
7 owners' additional costs of providing affordable units at the qualifying
8 development
- 9 (4) the owner or owners of the qualifying development satisfy a financial review
10 administered by the City that includes:
- 11 (i) a detailed description of the project and the development budget for the
12 project, including the identification of all sources of debt and equity
13 financing;
- 14 (ii) a multiyear pro forma cash flow analysis of the project detailing all
15 incoming and outgoing cash flow including revenues, operating expenses,
16 debt service, taxes, capital expenditures, and any other cash outlays;
- 17 (iii) the projected return on investment for the owner or owners;
- 18 (iv) the amount of potential revenue that may be lost through the provision of
19 affordable housing; and
- 20 (v) any additional information specified in the rules and regulations adopted
21 under this section; [and]
- 22 (5) the owner or owners of the qualifying development and the City enter into an
23 agreement, approved by the Board of Estimates, that:
- 24 (i) provides that the owner or owners of the qualifying development must pay
25 to the City a negotiated amount in lieu of the payment of City real property
26 taxes;
- 27 (ii) specifies an amount that the owner or owners must pay to the City each
28 year in lieu of the payment of City real property taxes during the term of
29 the agreement that is not less than 75% of the annual property taxes that
30 would otherwise be due to the City for the qualifying development in the
31 initial year of the agreement; and
- 32 (iii) is limited to a term of not more than 10 [years.] YEARS; AND
- 33 (6) PRIOR TO SUBMISSION OF AN AGREEMENT TO THE BOARD OF ESTIMATES, THE
34 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE
35 DEPARTMENT OF PLANNING SUBMIT A JOINT REPORT TO THE CITY COUNCIL THAT
36 INCLUDES:

Council Bill 24-0608

1 (I) FOR PROJECTS INVOLVING CURRENTLY-OCCUPIED PROPERTIES:

2 (A) A PROPERTY INSPECTION REPORT OF THE QUALIFYING
3 DEVELOPMENT;

4 (B) A SECURITY PLAN;

5 (C) A HISTORY OF CALLS FOR PUBLIC SAFETY SERVICES IN THE 36
6 MONTHS PRECEDING THE PILOT REQUEST;

7
8 (D) DOCUMENTATION OF THE PLANNED ACCESSIBILITY IMPROVEMENTS
9 TO UNITS FOR RESIDENTS WITH DISABILITIES;

10 (E) A MAINTENANCE AND CAPITAL PROJECT PLAN; AND

11 (F) AN ANALYSIS OF ANY APPLICABLE SECTIONS OF THE ZONING CODE
12 THAT MAY IMPACT THE QUALIFYING DEVELOPMENT; AND

13 (II) FOR PROJECTS INVOLVING VACANT STRUCTURES OR NEW
14 CONSTRUCTION:

15 (A) AN ENVIRONMENTAL REPORT FOR THE PROPOSED SITE;

16 (B) A MAINTENANCE AND CAPITAL PROJECT PLAN; AND

17 (C) AN ANALYSIS OF ANY APPLICABLE SECTIONS OF THE ZONING
18 CODE THAT MAY IMPACT THE QUALIFYING DEVELOPMENT.

19 **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
20 after the date it is enacted.