June 6, 2023

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin p.p.
Director of Budget and Policy Analysis

FROM: Malcolm Moody - MM
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CR-042-2023, Payment in Lieu of Taxes ("PILOT") – Agreement for Flats at College Park

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CR-042-2023 (*Proposed by:* The Chair of the Council at the request of the County Executive)

Assigned to the Government Operations and Fiscal Policy

A RESOLUTION CONCERNING PAYMENTS IN LIEU OF TAXES ("PILOT") AGREEMENT for the Flats at College Park Apartments for the purpose of approving the terms and conditions of a Payment in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and Flats at College Park RST, LLC (the "Owner").

Fiscal Summary

Direct Impact:

Expenditures: No additional expenditures.

Revenues: Forgone tax revenues totaling approximately $18,004,150 over a 30-year period.

Indirect Impact:

Potentially positive.

Legislative Summary:

CR-042-2023, proposed by the Chair at the request of the County Executive, was introduced on May 9, 2023, and referred to the Government Operations and Fiscal Policy Committee (GOFP). CR-042-2023 would approve the terms and conditions of a Payments in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and Flats at College Park RST, LLC (the "Owner").

Current Law/Background:

Section 7-506.3 of the Tax-Property Article of the Annotated Code of Maryland authorizes the County to exempt certain real property from County property taxes in certain circumstances. Specifically, the law permits such exemptions if:

- the real property is owned by a person engaged in constructing or operating housing structures or projects.
- the real property is used for a housing structure or project that is constructed or substantially rehabilitated under a federal, state, or local government program that:
  - ✓ funds construction, or insures its financing in whole or in part,
  - ✓ provides interest subsidy, rent subsidy, or rent supplements, or
  - ✓ is acquired under the Right of First Refusal program under Subtitle 13, Division 14 of the County Code.
- the owner thereof enters into an agreement with the governing body of the county and, where applicable, the municipal corporation where the real property is located, wherein such parties agree that the owner shall pay a negotiated amount in lieu of the applicable county or municipal corporation tax.
- the owner of the real property:
  - ✓ agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the governmental programs described in (a)(2)(ii) of this paragraph and
  - ✓ agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement, OR
  - ✓ enters into an agreement with the governing body of the county or municipal corporation to allow the entire property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least five (5) years.

Resource Personnel:

- Aspasia Xypolia, Director, Department of Housing and Community Development (DHCD)
- Adedamola George, Senior Compliance Manager, DHCD

Discussion/Policy Analysis:

The Flats at College Project (the "Project") is located on a 4.26-acre parcel, currently occupied by three vacant low-rise motels, at 9113 Baltimore Avenue in College Park, and is a 317-unit five-story, elevator serviced apartment building project. Under the proposed agreement, for the 30-year term, Flats at College Park RST, LLC ("Owner") will reserve 100% of the units for a target population of households whose incomes are at or below 80% of the Area Median Income ("AMI")[1]. The unit mix will consist of a mix of one-, two-, and three-bedroom units. CR-0-2023 would authorize the County to accept a payment in lieu of taxes equal to a $600.00 payment per affordable unit during the term of the PILOT agreement.

The Project is expected to cost $124,0820827. Financing includes Tax-Exempt Bonds totaling approximately $58,026,957; approximately $6,852,718 from a Seller Note (RST Development); approximately $6,807,550 from the deferred developer's fee; approximately $2,783,058 from Interim Income; and approximately $49,612,544 from an investor member in connection with Low-Income Housing Tax Credits ("LIHTC") awarded by CDA. The 30-year value of the County PILOT is approximately $51,000,000.

According to staff in the Department of Housing and Community Development, the Project's annual real property assessed value is approximately $51,000,000, and the County real property tax that will be due on the Project is an estimated $510,000.00 ($1,608.83/unit) in the first year. The PILOT reduces the aggregate tax burden on the entire 317-unit Project to thirteen percent (13%) of that amount, or approximately $66,199; this is equivalent to approximately two hundred eight dollars and eighty-three cents ($208.83) per unit tax burden. Under the agreement, the County would be forgoing real property tax revenue of approximately $443,801, or $1,400 per affordable unit, in year one.

Increasing the availability of affordable housing, both through construction of new housing and the rehabilitation of existing housing, is a stated objective of the Council, and a key component of the Comprehensive Housing Strategy[2].

Fiscal Impact:

Direct Impact

[1] Department of Housing and Urban Development - FY 2023 Income Limits Documentation System
[2] Draft Comprehensive Housing Strategy Report

Adoption of CR-042-2023 will have an adverse fiscal impact in the form of forgone tax revenue. As described above, accepting the PILOT on the entire Project of $66,199 will result in a loss of approximately $443,801 in the first year of the term. Factoring in the 2% estimated average annual increase in the property tax assessment, the total impact is estimated at $18,004,150.00 over the 30-year period that the PILOT agreement remains in effect.

However, should CR-042-2023 not be adopted the Owner may raise rents, making the units unaffordable to tenants at 80% AMI. Additionally, due to the appeal of fixed rent, the property may attract new residents.

Indirect Impact

Adoption of CR-042-2023 may have a favorable indirect fiscal impact upon the County to the extent that new residents generate additional economic activity, though the exact impact is unknown.

Items for Committee Consideration:

- The Agreement provides that "Eligible Households" are those earning 80% or less of AMI on page 1 of Attachment B, but in the definition of "Eligible Household on page 5, the text states that eight percent of AMI is the reference. *This inconsistency should be resolved prior to adoption.*
- In the definition of "Eligible Household on page 5, the text references the Baltimore Metropolitan Statistical Area instead of the Washington Metropolitan Statistical Area. *This inconsistency should be resolved prior to adoption.*
- Is the acceptance of the PILOT agreement a condition precedent of the completion of the development as proposed (*i.e.*, does it pass the "but-for" test)?
- Does encouraging this type of development provide a reasonable return, economic or otherwise, to the County for the forgone tax revenue?

Effective Date of Proposed Legislation:

The proposed Resolution shall become effective as of the date of adoption.

If you require additional information, or have questions about this fiscal impact statement, please call me.