June 13, 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-043-2023, Payment in Lieu of Taxes ("PILOT") – Agreement for the 210 on the Park Apartments

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CR-043-2023 (*Proposed by:* The Chair of the Council at the request of the County Executive) (*Sponsored by*: Council Members Harrison and Oriadha)

Assigned to the Committee of the Whole

A RESOLUTION CONCERNING PAYMENTS IN LIEU OF TAXES ("PILOT") AGREEMENT for 210 on the Park Apartments for the purpose of approving the terms and conditions of a Payments in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and 210 MPD Partners, LLC (the "Owner").

Fiscal Summary

Direct Impact:

Expenditures: No additional expenditures

Revenues: Forgone tax revenues totaling approximately $19,400,416 over a 50-year period.

Indirect Impact:

Potentially positive.

Legislative Summary:

CR-043-2023[1], proposed by the Chair at the request of the County Executive and sponsored by Council Members Harrison and Oriadha, was introduced on May 9, 2023, and referred to the Committee of the Whole (COW). CR-043-2023 would approve the terms and conditions of a Payments in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and 210 MPD Partners, LLC ("Owner") for the 210 on the Park (the "Project").

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.

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[1] CR-043-2023

Resource Personnel:

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

Discussion/Policy Analysis:

The 210 on the Park (the "Project")[2] is located at 210 Maryland Park Drive, Capitol Heights, Maryland, and is a 158-unit transit-oriented, mixed-income, mixed-use rental apartment community. Under the proposed agreement, for at least a 50-year term, Community First Development Corporation, (the "Developer") will reserve 121 units for family households, whose incomes are at or below 80% of the Area Median Income ("AMI")[3]. Seven (7) units will be provided for youth transitioning out of foster care, who earn no more than 40% of the AMI. An additional thirty 30 units will be market-rate. The unit mix will consist of a mix of one- and two-bedroom units. CR-043-2023 would authorize the County to accept a payment in lieu of taxes equal to a $58.00 payment per affordable unit during the term of the PILOT agreement. The Project is being proposed by Atlantic Pacific Communities ("APC") and Cober Johnson Romney ("CJR") (together, the "Development Team") to construct or rehabilitate the Project to provide housing to Eligible Households as described in the details of the PILOT.[4]

The Project is expected to cost $60,187,484. Financing includes funding from a Private Lender (Berkadia/Freddie Forward) totaling approximately $33,330,613; approximately $12,000,000 in loans from Amazon; approximately $11,856,871 in equity from A. Wash & Associates; and approximately $3,000,000 from the County's Housing Investment Trust Fund ("HITF") Program loan. The 50-year value of the County PILOT is approximately $19,400,416[5].

According to staff in the Department of Housing and Community Development, the Project's annual real property assessed value is approximately $29,229,900, and the County real property tax that will be due on the Project is an estimated $292,299.00 ($1,849.99/unit) in the first year. The PILOT reduces the aggregate tax burden on the entire 128-unit Project to three percent (3%) of that amount, or approximately $62,924; this is equivalent to fifty-eight dollars ($58) per unit tax burden on the 158 affordable units. Under the agreement, the County would be forgoing real property tax revenue of approximately $229,375, or approximately $1,792 per affordable unit, in year one[6].

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[2] 210 on the Park Apartments
[3] Department of Housing and Urban Development - FY 2023 Income Limits Documentation System
[4] CR-043-2023 Attachment A-2 Project Information Sheet
[5] Attachment A-3 Project Financing Estimate (Page 7)
[6] 210 on the Park - PILOT Analysis v2

Increasing the availability of affordable housing, both through the 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[7].

Fiscal Impact:

Direct Impact

Adoption of CR-043-2023 will have an adverse fiscal impact in the form of forgone tax revenue. As described above, accepting the PILOT on the entire Project of $62,924 will result in a loss of approximately $229,375 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 $19,400,416.00 over the 50-year period that the PILOT agreement remains in effect.

However, should CR-043-2023 not be adopted the Owner may raise rents, making the units unaffordable to tenants at 80% or youth transitioning out of foster care at 40% AMI. Additionally, due to the appeal of fixed rent, the property may attract new residents.

Indirect Impact

Adoption of CR-043-2023 may have a positive 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:

- 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?
- What will be the unit mix once the project is completed?

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.

[7] Draft Comprehensive Housing Strategy Report