



# THE PRINCE GEORGE'S COUNTY GOVERNMENT


## Office of Audits and Investigations

May 11, 2022

### FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.  
Council Administrator

William M. Hunt  
Deputy Council Administrator

THRU: Josh Hamlin   
Director of Budget and Policy Analysis

FROM: Malcolm Moody - *MM*  
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement  
CR-046-2022, Payment in Lieu of Taxes ("PILOT") Agreement for the Oaks at Park South Project

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**CR-046-2022** (*Proposed by:* The Chair of the Council at the request of the County Executive; *Introduced by:* Council Members Hawkins, Streeter, Turner, Glaros, Harrison, Taveras, and Franklin)

Assigned to the Government Operations and Fiscal Policy Committee

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A RESOLUTION CONCERNING PAYMENTS IN LIEU OF TAXES ("PILOT") AGREEMENT FOR THE Oaks at Park South Project 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 the ECD Oaks Apartments, LLC (the "Owner").

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### Fiscal Summary

**Direct Impact:**

*Expenditures:* No additional expenditures.

*Revenues:* Foregone tax revenues totaling approximately \$2,675,991 over a 25-year period.

**Indirect Impact:**

Potentially positive.

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**Legislative Summary:**

CR-046-2022, proposed by Council Chair Hawkins by request of the County Executive was introduced by Council Members Hawkins, Streeter, Turner, Glaros, Harrison, Taveras, and Franklin, on April 26, 2022, and referred to the Government Operations and Fiscal Policy (GOFP) Committee. CR-046-2022 would approve the terms and conditions of a Payments in Lieu of Taxes (“PILOT”) Agreement between Prince George’s County, Maryland (the “County”) and ECD Oaks Apartments, LLC (the “Owner”) concerning the Oaks at Park South project (“Project”).

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**Current Law/Background:**

Section 7-506.1 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, or
    - ✓ provides interest subsidy, rent subsidy or rent supplements.
  - 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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**Resource Personnel:**

- Aspasia Xypolia - Director, Department of Housing and Community Development
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**Discussion/Policy Analysis:**

The Oaks at Park South is located at 54000 Livingston Terrace, Oxen Hill, MD, and is a four hundred eighty-eight (488) unit garden style apartment community. Under the proposed agreement, for the twenty-five (25) year term, the Owner will reserve all four hundred eighty-eight (488) units for low-to-moderate-income families earning up to sixty percent (60%)<sup>1</sup> of the Area Median Income (AMI)<sup>2</sup>. The unit mix will consist of one hundred twenty-four (124) one-bedroom units, two hundred seventy-two (272) two-bedroom units, and ninety-two (92) three-bedroom units. CR-046-2022 would authorize the County to accept a payment in lieu of taxes for each unit of fifty-five dollars (\$55.00).

The Project is expected to cost one hundred and one million, one hundred and fifty-seven thousand, seven hundred and sixty-seven dollars (\$101,157,767), including acquisition, infrastructure development and construction. Financing includes a private loan (“First Loan”) totaling approximately sixty-four million, five hundred seventy-nine thousand dollars (\$64,979,000); approximately thirty-two million, five hundred sixty thousand, eight hundred ninety dollars (\$32,560,890) from an equity investor using its Social Impact Fund; and approximately three million, six hundred and seventeen thousand, eight hundred seventy-seven dollars (\$3,617,877) from the developer equity. The 25-year value of the County PILOT, which is valued at approximately thirteen million, six hundred and ninety-seven thousand, five hundred dollars (\$13,697,500).

The Oaks at Park South community is in the process of being acquired by the Enterprise Community Development (the “Developer”) through the Right of First Refusal (“ROFR”) program and entered into a purchase and sale agreement with the existing owner on February 4, 2022. Currently the units are not subject to any rent restrictions, though all of its units will be priced at levels affordable to households earning up to sixty percent (60%) of the AMI. Currently 95% of the units or four hundred sixty-four (464) out of the four hundred eighty-eight (488) units have not had major replacements or upgrades in the past thirty (30) years and in some instances fifty (50) years. The Developer intends to invest approximately six million, eight hundred thousand dollars (\$6.8 million) over the next five (5) years into in-unit capital improvements and plans to exceed County minimum set-asides of total units for residents with mobility and sensory impairments. Major areas for improvement include roof, window, and HVAC unit replacements. There is also planned improvements to the community’s curb appeal by painting exteriors, stairways, and

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<sup>1</sup> Note that the transmittal letter, and Attachments A-1 and A-2 of the Resolution all state that the units will be reserved for tenants at or below 80% of AMI, but the agreement itself, which is Attachment B, says eligible households are those earning up to 60% of AMI (Attachment B, page 1, “Project Facts and Terms”).

<sup>2</sup> 2021 Maryland Income and Rent Limits (Pg. 9), 80% limit would equate to \$74,100 income limit for a three-person household and a max gross rent of \$1,853

balconies. Expenditures would also be used to make available building amenities such as the pool and clubhouse. The PILOT will remain in effect for twenty-five (25) years which includes the extended affordability period.

According to staff in the Department of Housing and Community Development, the Project's annual real property assessed value is approximately \$13,697,500, and the County real property tax that will be due on the Project is an estimated \$136,975 (\$280.69/unit) in the first year. The PILOT reduces the tax burden to \$55/unit on all affordable units (in this case, all units), meaning that under the agreement the County would be forgoing real property tax revenue of approximately \$110,135.00, or \$226 per unit, in year one.

Increasing the availability of affordable housing, both through preservation of existing stock and the renovation of existing housing, is a stated objective of the Council, and a key component of the Comprehensive Housing Strategy.

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**Fiscal Impact:**

*Direct Impact*

Adoption of CR-046-2022 will have an adverse fiscal impact in the form of forgone tax revenue. As described above, accepting the PILOT of \$55/unit will result in a loss of approximately \$110,135 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 \$2,675,991 over the 25-year period that the PILOT agreement remains in effect.

However, should CR-046-2022 not be adopted the Owner may not be able to complete the necessary renovations that will negatively impact current County residents. Alternatively, the Owner may raise rents, making the units unaffordable to tenants at 60% AMI. Additionally, due to the appeal of renovation and fixed rent, the property may attract new residents.

*Indirect Impact*

Adoption of CR-046-2022 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.

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**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?
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**Effective Date of Proposed Legislation:**

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

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