

October 2009

Contacts

[Richard L. Aguglia](#)

1900 K Street, NW
Washington, DC 20006-1109
(202) 955-1634
raguglia@hunton.com

Local Tax and Land Use Update

DC Real Property Tax Rates for FY2010 (October 1, 2009 – September 30, 2010)

In a surprise move, the DC Council did not lower the Class 3 tax rate for vacant buildings/vacant lots to \$5.00 per hundred. Instead, the council voted to adopt a Class 3 tax rate defined loosely as "Blighted" at \$10.00 per hundred. It appears that vacant buildings/vacant land not so classified will fall under Class 1 or 2. New legislation to clarify the definition of "Blighted" is anticipated. For the present, the term "Blighted" has been categorized as those buildings that are boarded up and without utilities for at least six months. The new Class 3 is part of the Budget Support Act of 2009, passed on September 22, 2009, which is not yet available online for public review and is subject to the 30-day congressional layover before becoming law.

DC's Mandatory Inclusionary Zoning (MIZ)

MIZ took effect on August 14, 2009. Under the new law, low-rise developments (stick built) must provide 10 percent of the matter of right density or 75 percent of achievable bonus density, whichever is greater for affordable housing, half at prices affordable to persons making 50 percent of the area median income (AMI) and the other half to those making 80 percent

of AMI. High-rise projects (steel and concrete) must provide 8 percent of units to persons at 80 percent AMI. In exchange for providing affordable units, developers will generally receive a 20 percent density (FAR) bonus.

The law will affect all new buildings or additions of 10 or more housing units, except for, by way of example, dormitories, hotel rooms, diplomatic housing and supportive housing (CBRFs), historic designations and those areas where no further density is allowed such as in the downtown C-4 zone district.

DC Real Property Tax Sales

The Office of Tax and Revenue's (OTR) real property tax sale scheduled for mid-September 2009 was enjoined by the Superior Court of the District of Columbia for setting a threshold limit of \$1,200 in delinquent taxes. The sale may restart in mid-October. The court held that OTR's emergency rulemaking to set the threshold was in violation of DC law that required all delinquent properties be sold at tax sale.

Tax Amnesty

The DC Council has authorized the CFO to implement a tax amnesty program for tax years through December 31, 2008, with the option to extend the program for future years. This bill is

expected to become law around the end of this year. Those taxpayers who voluntarily report unpaid taxes may receive amnesty from civil or criminal penalties provided for by statute. Amnesty is not afforded for unpaid real estate taxes, transfer taxes on real property, special assessments, payments in lieu of real property taxes or ballpark taxes. The CFO will have to publish rules in the DC Register to implement this program.

BRPAA Legislation

OTR requested legislation to allow its assessors to appeal unfavorable Board of Real Property Assessment and Appeals (BRPAA) decisions to Superior Court through the Office of Attorney General. However, the Council rejected the measure.

Case of Note

Hunton & Williams was successful for its client in the following case:

BZA Appl. No. 17961

Boston University was granted a special exception for a teaching facility in Georgetown (Center for Digital Imaging Arts) with a 25 percent parking reduction.

For further information on any of these subjects, call Richard Aguglia at (202) 955-1634.

© 2009 Hunton & Williams LLP. Attorney advertising materials. These materials have been prepared for informational purposes only and are not legal advice. This information is not intended to create an attorney-client or similar relationship. Please do not send us confidential information. Past successes cannot be an assurance of future success. Whether you need legal services and which lawyer you select are important decisions that should not be based solely upon these materials.