COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING
BEFORE THE COMMITTEE OF THE WHOLE

\- - -

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, Oct. 27, 1999
10:55 a.m.

\- - -

BILL 960662 - Withdrawn at request of sponsor.
BILL 960663 - Withdrawn at request of sponsor.
BILL 970214 - Amending Philadelphia Code section entitled "Authorization to Offer Exemption From Real-Estate Taxes on New Construction of Residential Properties". . .
BILL 970652 - Amending Philadelphia Code section entitled "Real-Estate Taxes". . .
BILL 980303 - Amending chapter in Philadelphia Code entitled "Realty Transfer Tax". . .
BILL 980927 - Amending chapter in Philadelphia Code entitled "Realty Transfer Tax". . .

(Full text of all bills appear within body of transcript.)

PRESENT: COUNCIL PRESIDENT ANNA C. VERNA, Chair
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN DAVID COHEN
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL A. NUTTER
COUNCILWOMAN MARIAN B. TASCO
COUNCILMAN ANGEL L. ORTIZ
COUNCILMAN FRANK DICICCO
COUNCILMAN BRIAN J. O'NEILL
COUNCILMAN RICHARD T. MARIANO
COUNCILMAN FRANK RIZZO

\- - -

VINCENT VARALLO ASSOCIATES, INC.
Registered Professional Reporters
Eleven Penn Center, Suite 600
Philadelphia, PA 19103
(215) 561-2220

10/28/99 COMM. OF THE WHOLE

I N D E X

10/28/99 WHOLE COMM. - 970652

P R O C E E D I N G S

COUNCIL PRESIDENT VERNA: Would all Councilmembers please report to the chambers, would all Councilmembers please come down to the chambers so that we can get started with our public meeting. Thank you.

- - -

COUNCIL PRESIDENT VERNA: Good morning. This is the public hearing of the Committee of the Whole, and I apologize to everyone for the delay.

I would ask the clerk to please read the titles of Bill No.'s 960662 and 970652.

MR. MCPHERSON: Bill No. 960662, an ordinance amending Section 19-13022 of The Philadelphia Code, entitled "Authorization to Offer Exemptions from Real-Estate Taxes on Improvements to Residential Property," by increasing the exemption amount to the maximum amount authorized by law, and by changing the exemption period from five years to ten years, all under certain terms and conditions.

Bill No. 970652, amending Chapter 19-1300 of The Philadelphia Code, entitled

10/28/99 WHOLE COMM. - 970652

"Real-Estate Taxes" by amending the section providing for the exemption from real estate on improvements to residential properties to expand the scope of the exemptions.

COUNCIL PRESIDENT VERNA: I would ask that Michael Nadol, the Director of Finance, and Robert DuBow, the Budget Director, to please take the witness table.

The Chair recognizes Councilman DiCicco.

COUNCILMAN DICICCO: Thank you, Madam President. I am withdrawing Bill No. 960662 at this time.

COUNCIL PRESIDENT VERNA: Thank you.

COUNCILMAN KENNEY: 960662?

COUNCIL PRESIDENT VERNA: 662, 960662 is being withdrawn at the request of the sponsor.

(Messrs. Nadol and Dubow come forward.)

COUNCIL PRESIDENT VERNA: Good morning, gentleman. Gentleman, gentleman, good morning.

MR. NADOL: Good morning, Council President and members of the committee. I am Michael Nadol, the Director of Finance for the City of Philadelphia, and with me is Rob DuBow,

10/28/99 WHOLE COMM. - 970652

the City's Budget Director.

We have submitted extensive written testimony on the various tax-change proposals before the committee this morning. We very much appreciate this opportunity to share our thoughts and to continue to work with Council on tax-restructuring initiatives.

With the pleasure of the Chair and the committee, we would be happy to summarize our written testimony in terms of certain general principles that we believe are important, and then focus on the two specific bills that have been introduced.

COUNCIL PRESIDENT VERNA: And that would be fine, mm-hmm. So at this time, you're only going to be testifying on 970652?

MR. NADOL: Correct, thank you.

I would like, as a preface to testifying on that particular ordinance or bill, to make a few general -- to state a few general principles that are important to the Administration.

There's no question that reducing the tax burden borne by Philadelphia's residents and businesses is one of the most critical priorities that we've faced over these last seven-plus years and that the City faces going into the future. The need to reduce our tax burden is an important part of the coming more competitive as a place to live and as a place for people to work. But at the same time, we need to balance that imperative with the ongoing need to sustain the critical services that are also important to the quality of life in Philadelphia and the people's decisions about whether or not to locate here.

So, in that spirit, we will be trying to present the Council in our testimony our sense of some of the costs in terms of lost tax revenues from some of these proposals, as well as some of the benefits that we would see either from tax reduction in general or, particularly in the case of abatements, the nature in which abatements and targeted incentives can stimulate new economic activity that would not have happened but for those specialized programs.

Certainly in the last few years, we've seen the benefit that abatement programs can have and the City already offers a set of multiple tax abatements that do help in many ways to encourage positive investment and activity in the City. Our 1997 partnership in conversion abatements has stimulated unprecedented levels of new investment in taking formerly abandoned facilities and creating new residential investment in the City.

So with all of those thoughts in mind, we will turn first to the specific ordinance, 970652.

COUNCIL PRESIDENT VERNA: Excuse me, Mr. Nadol.

MR. NADOL: Yes.

COUNCIL PRESIDENT VERNA: Councilwoman Miller, do you want to be recognized?

COUNCILWOMAN MILLER: Yes, I do. Thank you, Madam President.

I need to be excused from this hearing and will return, to take care of some of the Council business. Before I -- if I don't get a chance to return before voting happens, I'd like to at this time leave my vote of aye for moving Bill No. 980303 out of committee.

COUNCIL PRESIDENT VERNA: Thank you.

COUNCILWOMAN MILLER: Thank you.

10/28/99 WHOLE COMM. - 970652

COUNCIL PRESIDENT VERNA: Mr. Nadol?

MR. NADOL: Okay. This bill would modify an existing City tax abatement program for residential improvements. Under the City's current abatement program, we already provide a five-year phased-out real-estate tax exemption for residential property owners who make improvements to their properties. The program's limited to owner-occupied residents with not more than three units and to properties with an assessed value below $15,000 per unit, except in certain limited circumstances. This abatement is further limited in terms of the portion of additional assessment that can qualify. Any improvement is capped at $10,000 per dwelling unit for the purposes of exemption under this abatement program.

This bill that's before us today would modify this existing program in several ways: it would extend the existing abatement from five to ten years; and it would raise both the eligibility cap in terms of how expensive a property, a home would qualify for the program and in terms of how much of an improvement could be abated and exempted under the abatement program.

We've taken a look at the potential costs of each of those factors and have done what I would consider something of a worse-case analysis of what the potential costs could be in terms of foregone City revenues. Now, I say "worse-case" because we assumed that, based on current levels of L&I permit activity, that everyone taking out a Licenses and Inspections permit for residential improvements would both apply for the program and have their assessment immediately adjusted as a result of the improvement had they not applied for this proposed new abatement.

And based on those assumptions, the worse-case cost impact of this program would be, in its early years, just over $400,000 a year. And as the program fully phases in, rise to just over $2 million. Of course, as with any real-estate tax abatement program, that cost impact would be split between the School District and the City, with slightly more of a burden falling on the School District.

For the individual homeowner, the benefits over a ten-year period, assuming an

10/28/99 WHOLE COMM. - 970652

average improvement cost of just over $25,000, would be over $2,000 per homeowner.

In terms of the Administration's perspective regarding this proposal, we recognize that these caps, as set forth in the existing abatement program, have not been modified in more than twenty years. As such, they have certainly, as inflation and other housing costs have risen, they've certainly served to exclude more and more people from the program than was originally intended when the program was first put in place. And in that regard, we believe that some adjustment to these caps could have a positive impact in terms of promoting participation in this program and thereby promoting greater investment and improvements to our residential housing stock.

COUNCILWOMAN VERNA: Excuse me.

MR. NADOL: Sure.

COUNCIL PRESIDENT VERNA: Does that all mean that the Administration is supporting the bill?

MR. NADOL: Not in its entirety. Or, rather, we would propose that Council look closely at what the optimal caps and limitations would be in adjusting them upward. We do support the initiative to lift those caps, and we do support the proposed cap in terms of the value of improvement that would be set forth under this proposal.

Where we would suggest that Council look a little more closely would be with regard to which properties qualify. As it's currently proposed in moving the eligibility level for this program up to an assessed value of $61,800, in terms of actual market value, this would render relatively high-end homes eligible for the program. Even in BRT market value, you're talking of homes of nearly $200,000 in BRT market value becoming eligible for this program. And given the BRT market value typically falls significantly below actual sales prices, this program, as currently proposed, would become available to quarter-of-a-million-dollar homes.

We believe that the primary emphasis of a program such as this would be best served, particularly in light of the potential fiscal impact, through targeting towards middle-income and lower-income residents, and we would suggest a more modest cap, perhaps more in the area of $25,000 in assessed value, which equates roughly to a little more than a $100,000 home.

That would still make the program available for 95 percent of the City's homeowners. It would, we believe, significantly expand who could take advantage of the program, and hopefully thereby encourage more participation in the program, but it would help to minimize the fiscal impact on the City and also serve to target our resources again towards middle-income and lower-income residents.

COUNCIL PRESIDENT VERNA: I didn't mean to interrupt you of your testimony, but I didn't know exactly what position you were taking as far as the Administration was concerned.

MR. NADOL: Yes, and I appreciate that and I --

COUNCIL PRESIDENT VERNA: So would you continue with your testimony.

Councilman Kenney, please wait until he's finished.

MR. NADOL: With the Chair's assistance in focusing our comments, I think that I've concluded our primary testimony on this matter, but would certainly be happy to -- Rob and I would certainly be happy to address questions that members may have.

COUNCIL PRESIDENT VERNA: Is the only area of concern regarding the assessed value? And do you have proposed amendments that you're willing to offer?

MR. NADOL: We do not have an amendment prepared today. But, again, in terms of our area of concern --

COUNCIL PRESIDENT VERNA: Well, Mr. Nadol, the hearing's's today. I mean, if we don't have the amendment prepared today, when are we going to have it?

MR. NADOL: Um, I understand --

COUNCILWOMAN VERNA: Is that the only bone of contention, the assessed value?

MR. NADOL: From the Administration's perspective, yes. That's the one area where we would suggest that further consideration be given.

COUNCIL PRESIDENT VERNA: So if we like, you could offer that amendment today, could you not?

10/28/99 WHOLE COMM. - 970652

MR. NADOL: We would be -- we would certainly be prepared to try and get that together, yes.

COUNCIL PRESIDENT VERNA: All right. Mr. Nadol, can the City abate only the City's portion of the real-estate tax and not the School District's portion?

MR. NADOL: As I understand the proposal before us today, it would not do that, and none of our current abatement programs do that.

COUNCIL PRESIDENT VERNA: Well, I don't think that's my question.

MR. NADOL: Okay, I'm sorry.

COUNCIL PRESIDENT VERNA: Can the City abate only the City's portion of the real-estate tax and not the School District's portion?

MR. NADOL: From a legal perspective, I would want to confirm this with the Law Department. I don't believe there would be any constraint in terms of Council's ability to do that legally.

From an administrative perspective, it would be a difficult challenge. It would require extensive reprogramming of our computer systems that are used for collections and enforcement purposes, and there would be a significant cost associated with doing that.

COUNCIL PRESIDENT VERNA: Mr. Nadol, can you tell us why you think so few residents participate in the existing abatement program? And does the City actively advertise or publicize the program?

MR. NADOL: I think one of the constraints on this existing programs is that the thresholds for eligibility were set over twenty years ago and have not been adjusted upward. I think beyond that, it probably is an area where promoting the program more effectively could increase participation.

I think, from a practical perspective, a great deal of taxpayers may not wish to draw attention to the improvements that they've made and may fear that by applying for the abatement, they will draw undue attention that that will lead to increased assessments.

COUNCIL PRESIDENT VERNA: So what you're saying is that perhaps many of the people doing the necessary repairs are not getting L&I permits; and if in fact they are, L&I does not let the people know that the abatement is available to them.

MR. NADOL: I would apologize to the committee. We did not ask a representative from L&I to be here, and I have not spoken to them in detail about the type of notice and outreach that they conduct. We'd be happy to go back and provide that information to the committee. But it's I really don't know that I can speak to how much promoting of the program L&I currently does.

There are many more people who do apply for L&I permits than who choose to participate in this program. That's certainly the case.

COUNCIL PRESIDENT VERNA: But do they know about it? That's my question. If they know about it, don't you think they would take advantage of such a program?

MR. NADOL: I -- I'm -- I'm not sure why individual homeowners make the choices that they do.

COUNCIL PRESIDENT VERNA: My feeling is, they don't know about it, nor are they being told.

MR. NADOL: There is notification on the back of the permit. I mean, there is a formal notification that this abatement program is available to homeowners.

Beyond that, I hope that forums like this and maybe even programs beyond that could help to further educate people about this opportunity.

COUNCIL PRESIDENT VERNA: Thank you.

In your testimony on Page 5, you state that City Council may wish to carefully consider just where to draw the lines in terms of the level of improvement and the maximum assessed value of properties that will qualify for this abatement.

What does the Administration recommend as the point that the City draw that line?

MR. NADOL: I believe that we would draw -- we would recommend that that line be drawn at $25,000 for the assessed value. And, again, our thinking is that that equates to just more than -- a little better than a $100,000 house, which is significantly more expensive than the typical home in Philadelphia. It would let us target this program towards working families, towards middle- and lower-income residents, and that that would be a good rough place to draw the line.

In terms of the level of improvement and the cap in that regard, we would be comfortable supporting that aspect of the bill as drafted and supporting the time the City's program to the State cap, which is in the low $40,000 range.

COUNCIL PRESIDENT VERNA: Mr. Nadol, what would be the revenue impact to both the City and the School District at that proposed amendment value and the number of years of the abatement?

MR. NADOL: I'm sorry, I didn't quite follow the question. I apologize.

COUNCIL PRESIDENT VERNA: All right, I'll repeat it. What would be the revenue impact to both the City and the School District at the proposed assessment value and the number of the years of the abatement?

MR. NADOL: In our written testimony, we did provide a table that details a five-year, a ten-year breakdown of our estimated impact. As previously noted, this would be -- these are worse-case numbers on the order of magnitude as the program fully phases in of about $1 million a year for each budget. But, again, I think those are worse-case scenarios.

COUNCIL PRESIDENT VERNA: At what assessed value are we talking about? I mean, if you're going to the $25,000 --

MR. NADOL: Okay, at that level? By reducing the eligibility threshold to $25,000, you would capture about 95 percent of the property owners in the City but only about 80 percent of the total market value. The reason being that the 5 percent excluded would have relatively more costly, more valuable properties.

So you could discount the worse-case numbers that we have provided by about 20 percent to come to a reasonable estimate of what the impact would be. So instead of a worse-case impact on the order of magnitude of a million dollars a year, I think the worse-case impact would be on an order of magnitude of $750,000 a year for the City and a comparable impact on the School District.

Again, though, I think those are worse-case numbers. And the actual experience would likely be far lower. Our current experience, under the current program -- admittedly, the current program has its weaknesses -- is almost de minimis.

COUNCILWOMAN VERNA: Thank you.

The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Madam President.

Mr. Nadol, I'm curious as to why the need or recommendation for a cap for a capital --

(Microphone malfunction.)

COUNCILMAN KENNEY: Did you hear my question? For the residential property inside the City limits of Philadelphia, one would think that you would want to maintain and keep, regardless of the price of caps, those residents living in Philadelphia. And my argument, I guess, is, based on the fact that wherever the City does an analysis on this type of approach based on the potential loss of revenue as it relates to the assessment but not the retention of revenue, as it relates to wage tax, as it relates to spending and sales tax, as it relates to just neighborhood betterment because individuals are deciding to stay and fix up their property, as opposed to moving.

So if I have no (inaudible), then potentially a resident living in a half-million-dollar-house who makes improvements to that house, they are making a commitment to stay here for a period of five, seven, ten years. And with that comes the ancillary benefit of their wage taxes, of their sales taxes, of their buying power, and everything else.

So I think it may be more subjective or more difficult to figure out, but instead of looking solely at the $1 million, the $750,000 loss to the School District and to the City per year, maybe we should be looking at what it is we're retaining and try to offset that number (inaudible) with those figures, 'cause I don't think we do. (Inaudible.)

I don't think when we look at these issues, we do the comprehensive analysis necessary to determine the overall picture of what retaining that resident in the City means. It's simply not just a loss in the increased taxes.

MR. NADOL: No, I think you've raised some very legitimate public-policy questions, and, you know, there's a great deal of merit to the perspective of the position that you've just articulated.

And I think the question in part becomes one of how much of a difference do we think this will make for someone who has that half-a-million-dollar property. Is this going to provide a meaningful incentive for somebody to make that kind of location decision or not? Our feeling is that it --

COUNCILMAN KENNEY: Excuse me.

MR. NADOL: Sure.

COUNCILMAN KENNEY: Perhaps a half-a-million-dollar property is too high. Perhaps looking at a $250,000 or a $300,000 property -- there are properties in South Philadelphia that you wouldn't believe would sell for 250,000, 275,000, even 325,000 in a townhouse, rowhouse setting. So, I mean (inaudible.) But in the area of over a $100,000 are the people that have spending and buying power and that are also a wage tax base.

MR. NADOL: Again, I think that's a valid position. Our position varies only in that we would put a focus on assessing the middle-income and lower-income residents of the City.

If you look at the initial 1970s-era State and City ordinances that created the program that we're contemplating modifying today, the initial focus of this legislation was on deteriorating-blighted-areas-under-urban-redevelopment kind of philosophies. So in the same spirit as the original City Council ordinance that's creating this program, our thinking is to focus the program on, you know, middle-income and lower-income owner.

COUNCILMAN KENNEY: I know the Administration is coming to end soon and it's sad to see that happen, but perhaps the philosophical change in mindset should be more concern about retaining those middle- and upper-middle-income residents who are the bulwark of our tax base that we've been losing steadily over the past. (Inaudible) lost 150,000 of those people, perhaps that kind of abatement and perhaps some other issues would have made them make decisions to stay as opposed to leaving and then invest money in their own properties. That's just what I believe.

I'm wondering -- you touched on the L&I issue -- whether or not there would be any increased volume in permits based on the expansion of this abatement program and its increase in the number of people that are able to participate, whether or not we would in fact have more (inaudible) as opposed to doing the work and waiting for (inaudible), which at some point would make a better and a safer city because of that work inspected and approved and done by contractors, number one. And, number two, you would probably have some (inaudible) in revenue as a result of these permits being issued, because I understand that permits based on the amount of work they're doing, the square footage, and the cost of the work involved. And maybe there's a positive revenue stream that comes as a result there being more permits issues.

MR. NADOL: I think that could very well be. I would like to think that our residents don't do things off the books or under the table.

10/28/99 WHOLE COMM. - 970652

But human nature being what it is, changing the environment in which those kinds of decisions are made could very well have the kind of positive impact that you're talking about.

COUNCILMAN KENNEY: I suggest you sit on a Saturday (inaudible) in a parking lot and determine what's going on without permits.

(Laughter.)

COUNCIL PRESIDENT VERNA: It is my understanding that -- I just received a phone call from --

MR. NADOL: We believe that some of our inspectors do so, as a word to the wide.

COUNCIL PRESIDENT VERNA: I just received a phone call that the deputy commissioner of L&I is supposed to be on his way to testify.

COUNCILMAN KENNEY: I do have one final question, Madam Chair. What is this Administration's opinion or its sponsor on improvements that take place to a home that's currently under the abatement program now in the fifth, sixth or seventh year. Is there extrapolation on that of the increase in the value of the property there? Or is it based on the work

10/28/99 WHOLE COMM. - 970652

done one time? 'Cause I could see over the period of a decade, someone may want to develop, expand, improve, fix the front or do something different to that property during the course of a ten-year abatement, and taking advantage of (inaudible).

MR. NADOL: Thank you. That wasn't something we had talked about in our preparation, but I've just been advised by the representative from the Law Department who we have with us that each improvement would qualify separately so that the taxpayer would be able to enjoy the abatement benefit of making a later improvement, even if it falls within the period still covered by the first improvement.

COUNCILMAN KENNEY: Thank you. Thank you, Council President.

COUNCILWOMAN VERNA: But is it limited to the $41,200, as it appears in the bill?

MR. NADOL: I think we'd need to take a closer look at that and ask the Law Department to let us know, and we'll certainly pass that on to you.

COUNCIL PRESIDENT VERNA: You know, this bill was introduced in 1997, and I would have thought that by the time we had a hearing that people would have certainly have had answers.

However, at this time, I would like to recognize Councilman DiCicco.

COUNCILMAN DICICCO: Thank you. I actually almost forgot that I introduced this bill, it's been so long.

COUNCIL PRESIDENT VERNA: It's been so long, huh?

(Laughter.)

COUNCILMAN DICICCO: Some people are asking me questions for the last two days about this bill and several other bills that were issued as far back as 1996. I didn't want to sound like I didn't know what I was talking about, but I kind of forgot what I was talking about.

(Laughter.)

COUNCILMAN DICICCO: I just want to pick up on some of the comments that the Council President and Jim Kenney made, and I certainly support Jim Kenney's comments that I think the emphasis here is to do what we can to retain residents.

Paul Levy will be up shortly to

testify, and I think, in his testimony, which I had the opportunity to read yesterday, he will address some of those issues on retention and what that means to the City when people stay here and we collect sales-based taxes and other taxes from them.

The intention -- at the time when I introduced this bill, my intent was to basically not penalize people for staying in Philadelphia and reinvesting in their homes and in our community. And all too often, that is the attitude that people think that government has towards them. And I also agree with the Council President, and it may be written on the back of the permit -- and I trust that it is there, but I don't know how many people take the time to read that -- if in fact, they even take out a permit.

But generally in the neighborhoods where I've been very active for the last 32 years, people will typically go forward and do a rehabilitation of their house, do some rehab work, and look not to take out a permit because the first thing out of their mouths is, If I do this and take out a permit, I'm going to be reassessed. So in effect, they would be penalized for that reinvestment.

I have had some conversation with the Administration on the numbers and see if we would be looking to reduce them, but I'm having second thoughts about that because I want to see people who can afford a $500,000 house either stay here or move into the city. The housing stock in Philadelphia, for the most part, is very old, and there aren't many homes, unless it's a new home, that you can just move into. So in addition to purchasing the home, there also is a significant amount of improvements that need to go into the home when you move in.

When I was married in 1968, I bought an old house and I probably put, at that time, over the course of two or three years, $80,000 in improvements -- for a house that I only paid $6,000 for.

So, again, I think we need to really look at the numbers. I think that the numbers we originally incorporated into the bill are probably the correct way to go, but I'm open for discussion before we vote on this bill. If there is someone that could convince me that it should be reduced, we'll look at that.

Thank you. Thank you, Madam President.

COUNCILWOMAN VERNA: You're welcome.

Are there any other questions from Councilmembers from Mr. Nadol or Mr. Dubow?

(No further questions.)

COUNCIL PRESIDENT VERNA: Thank you, gentlemen.

Is there anyone else that would like to testify on this bill?

(Paul Levy comes forward.)

COUNCIL PRESIDENT VERNA: Mr. Nadol, maybe could you stay where you are. And maybe you could just pull up a chair, Mr. Levy.

Good morning. Please identify yourself for the record and proceed with your testimony.

MR. LEVY: Good morning. My name is Paul Levy. I'm here as the Executive Director of Central Philadelphia Development Corporation. I have copies of my testimony, and I will obviously edit my remarks from the testimony.

What I'd like to do in my remarks, is, with Council President's permission, address more broadly the tax abatement issue, because we have more than one abatement ordinance in front of us, and I'd like to testify first in favor of the expanded use of tax abatement to stimulate new construction and renovation in all neighborhoods in the City, and offer some suggestions on how we might amend the bill in front of us.

I think the challenge which Councilman Kenney just raised was the need to both retain existing residents and attract new residents, and I think in the absence of federal funds, which we used to have, abatements can become a very, very powerful tool.

What I'd like to do is very quickly review some analysis that we did with the cooperation of David Glancy and his staff at the Board of Revision of Taxes, looking at, one, how many properties in the City of Philadelphia at this moment are enjoying any and all abatements of all types, the geographic location of those type of abatements, the trends over the last decade, and some analysis we have done on the fiscal impact.

In my testimony -- I'm on Page 3 of my

testimony and I'm going to be jumping back and forth to a series of maps and charts that are at the back. But I think the first thing to note, because I think there's always concern that with abatements, somehow or other, we're giving away the store from a revenue side or we're giving it away to developers, or somehow or other taking advantage of City.

And the reality, based on all of the abatements that are currently in existence today, is that their use is incredibly minimal. There are only 628 taxable parcels in the City out of 538,000 parcels which are taxable. Only 620 or enjoying an abatement of any type -- residential or commercial. That is less than 1/8th of 1 percent of the properties. The total abated assessed value is less than 1 percent.

And I think, as something that Councilman Kenney was just alluding to, since the real-estate tax is only 20 percent of the source of locally-generated revenue, and fully 70 percent is coming from wage earnings and sales tax, the theory of a real-estate tax abatement is that if you abate the real-estate tax, you can get an

10/28/99 WHOLE COMM. - 970652

upside on other taxes.

I think the second trend that's important that you can see in the charts that we've provided is that the use of abatements in this city is declining -- not increasing, it is declining.

Third, the primary beneficiary of all abatements in this city are the residents, not commercial properties. Eighty-one percent of the beneficiaries of abatements are residential properties.

Fourth, abatements are primarily in neighborhoods, not in Center City -- which might be the mythology that exists. In fact, Center City has only 4 percent of the City's active abatements.

We are seeing the use of residential abatements in this city in two areas: 1. Low- and moderate-income neighborhoods in North and West Philadelphia, where public subsidies are also at work; and 2. Portions of the far Northeast and Roxborough that are offering market-rate housing.

I think what's interesting is that we've seen success with abatements in Center City, we've seen success with abatements in North and West Philadelphia and the Far Northeast and Roxborough. But what we have not done, as I think Councilman Kenney has suggested, is try to look at the return on these abatements.

We were able, with the cooperation of two of the developers who took advantage of the bill that Council passed in 1997, the ten-year abatement on conversion of vacant offices to residential to do precisely that analysis of what have we abated in residential and what have we gotten on the upside.

And without going through all the details, on Page 6, in the middle of Page 6, this is one of the properties that has benefited from the ten-year abatement in Center City, and because 72 percent of the people in those apartments have moved from outside the City into the City, we are dealing with a significant upside. In this case, it was a vacant office building that has now 162 apartments. As a vacant office building, it was paying $25,000 a year in real-estate taxes.

What we abated in improvements -- what the City abated in improvements was a half a million dollars in real-estate taxes in the very first year. In construction-generated wage and sales tax the, City got $514,000 back of revenue it had never seen. And in the first and second year, we got almost a million dollars in new wage and sales tax revenue.

So the theory of the real-estate tax abatement here is very clear. By abating the real-estate tax, in this case, we are getting people with incomes that are generating other activities and it is more than repaying the abated value.

I think the success I think that we've seen in the far northeast an Roxborough can be reproduced citywide, and I would suggest that Council look broadly at a ten-year abatement for improvements to owner-occupied housing, to multifamily housing, that we look at the broadest possible flexibility so that we can create some significant incentives.

What's interesting is that those areas of the City -- the Far Northeast and Roxborough -- that have had the highest use of abatements in market-rate housing are still losing population,

10/28/99 WHOLE COMM. - 970652

still losing population.

So I would suggest -- I'm on Page 86 of my testimony at this point -- that we clarify Bill 970652 as well as or roll it together with the other bill that is in front of this committee, 970214, and have it broadly apply to residential construction, new construction, renovation for single or multifamily. That is a generous and broad definition. I would suggest that we go for 100 percent abatement for 10 years. I think the upside is very significant in terms of revenue that comes back in.

I think clearly, as I know the Administration recognizes as well, we've probably got to reword these bills so that they can be consistent with the Commonwealth's Local Economic Revitalization Tax Assistance Act, and we are prepared to help devote some of the time of our attorneys pro bono to work with the City. But we think we want to clarify that that act can apply to new residential construction and improvements to existing.

I think if you look at these charts, you will see that we are making minimal use of

10/28/99 WHOLE COMM. - 970652

abatements, and that I think -- as I think the Councilman suggested before, if you advertise these abatements, people will take advantage of them. I think there's an enormous opportunity for this Council to pass a series of abatements that can stabilize neighborhoods and attract new residents.

So I thank you very much for this opportunity, and I would be willing to answer any questions that people in Council may have.

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilman Cohen.

COUNCILMAN COHEN: What is it -- Mr. Levy, what is the bill number you're specifically testifying on?

MR. LEVY: On Bill --

COUNCIL PRESIDENT VERNA: 970652.

MR. LEVY: Councilman, in my opening remarks, I asked your indulgence that my remarks be addressed not only to 652 but another bill that will be heard today, which is 970214. I think they are related bills --

COUNCIL PRESIDENT VERNA: That's the new commercial --

MR. LEVY: One is for new construction and one is for existing renovation.

And what I'm suggesting is that rather than split hairs, let's talk about stimulating both new construction and renovation and do this broadly and really send a very clear message that we want to retain residents and attract residents.

So I took a little bit of liberty to extend beyond the specific bill to focus on both bills.

COUNCILMAN COHEN: What's the number of the other one?

MR. LEVY: The other one is 314. One addresses new construction, the other addresses renovation.

COUNCILMAN COHEN: But do both relate solely to residential properties?

COUNCIL PRESIDENT VERNA: Yes.

MR. LEVY: Yes. That is my understanding.

COUNCILMAN COHEN: And do they refer to residential properties consisting of both single-home ownership, duplexes, as well as larger properties?

MR. LEVY: Yeah. Certainly, my recommendation is that we focus on single-family, multifamily, duplex, condo, apartment, and that we not try to split hairs and that we would welcome residents of any and all type and any type of tenancy, and that that ought to be our goal.

COUNCILMAN COHEN: And does it also apply to any and all income levels?

MR. LEVY: I was suggesting that we not impose any type of income levels, that we look at this more broadly because the upper-income people who would be getting their abated real-estate taxes would be paying higher sales taxes, higher wage taxes -- that was the experience in Center City. But rather than try to set a cap, which in this case, was twenty years out of date, I would suggest you just make it available to everyone who wants to renovate a house, buy a house, or be in an apartment.

COUNCILMAN COHEN: Buy an existing house?

MR. LEVY: No, I think that -- and, again, I'm not the author of these bills, but I think the spirit was new construction or substantial improvements to an existing property.

MR. NADOL: Councilman, just to clarify.

COUNCILMAN COHEN: Yes.

MR. NADOL: I'm Michael Nadol, the City's Finance Director.

The first bill regarding home improvements only applies to owner-occupied residences of up to three units. The other bill under consideration for new residential construction would apply to buildings with any number of units, including larger condominium complexes and the like, with the provision that the dwelling unit be owner-occupied.

So it would not apply to residential apartment buildings, but it could apply to a large residential condominium development or row homes or the owner-occupied dwelling unit in a duplex.

COUNCIL PRESIDENT VERNA: And I believe that --

MR. NADOL: And that's -- I'm sorry. In both cases, that's consistent with the current abatement programs that are being modified --

proposed for modification today.

COUNCILWOMAN VERNA: Isn't there also a maximum, according to the bill before us? "The maximum cost shall be $41,200 per dwelling unit for improvements constructed"?

MR. NADOL: For the improvement bill, that's correct.

COUNCIL PRESIDENT VERNA: Mm-hmm. So there is a cap.

MR. NADOL: That's correct. It is a cap. Again, just to clarify -- I hope clarify.

COUNCIL PRESIDENT VERNA: I don't know that --

MR. NADOL: It's hard to clarify when you start talking about assessment value and market value.

COUNCIL PRESIDENT VERNA: I know. I didn't know if the Councilman knew that.

MR. NADOL: But that's a limit on the value of the improvement s and on the assessed value of the underlying property. It's not specifically pegged to income, per se. Although, of course, a lower-income person would not likely be able to afford an extraordinarily expensive property.

COUNCILMAN COHEN: Well, I --

COUNCIL PRESIDENT VERNA: That's not the cost of the property; it's the cost of the improvement that we're talking about. Is that not true, Mr. Nadol?

COUNCILMAN COHEN: Well, I just -- I'm not sure I --

MR. NADOL: No, they're both -- they're each capped separately, with separate limitations.

COUNCILMAN COHEN: Let me use my own home, 'cause it's in an old, established neighborhood.

COUNCIL PRESIDENT VERNA: Councilman Cohen, would you excuse me just a moment.

COUNCILMAN COHEN: Yes.

COUNCIL PRESIDENT VERNA: So that I can recognize Councilwoman Tasco, who is late for an appointment.

COUNCILWOMAN TASCO: Madam President, I ask to be excused for a moment to go take care of some Council business. I should return, but if I'm not back prior to the vote to report these bills out of committee, I would vote to report all bills out of committee, with the exception of Bill 980927. But I hope to return.

COUNCIL PRESIDENT VERNA: Thank you. And you --

COUNCILWOMAN TASCO: Bill 980927 -- I'm not voting to report that out of committee.

COUNCIL PRESIDENT VERNA: All right.

And, Councilwoman, if there are amendments to any of the other bills, are you in favor of them?

COUNCILWOMAN TASCO: Yes, ma'am.

COUNCILMAN RIZZO: Thank you.

Councilman Cohen?

COUNCILMAN COHEN: I live in either Logan or West Oak Lane, depending on whether you're buying or selling. And suppose I embark on a major improvement, suppose I embark on a major improvement on my home, say, at the cost of $10,000. And that would result normally in an increased assessment of $10,000 by the Board of Revision of taxes.

Now, tell me what happens under the impact. Is there any impact on that? I'm a homeowner and I live there, I'm a long-term

10/28/99 WHOLE COMM. - 970652

resident, 48 years.

MR. NADOL: Is there an impact because of the bill that's under consideration today?

COUNCILMAN COHEN: Is there what?

MR. NADOL: You're asking if the bill under consideration today would change the --

COUNCILMAN COHEN: It's that bill, Bill -- 652 are the last three numbers. Does it apply to that situation?

MR. NADOL: I believe that it would so long as the assessed value of the property in question would qualify under the eligibility cap for the program.

COUNCILMAN COHEN: And what is the eligibility cap for the program?

MR. NADOL: Today, the eligibility cap is limited to -- limits the program to those properties with an assessed value below $15,000 per unit.

COUNCILMAN COHEN: Below what?

MR. NADOL: $15,000 per unit.

COUNCILMAN COHEN: 15.

MR. NADOL: Which, again, is assessed value, not actual real-world sales-price value.

Under the --

COUNCILMAN COHEN: Yeah, well, I'd fail on that basis.

MR. NADOL: Under the bill that is proposed today, that cap would increase to $61,800. So I don't know if you would call qualify or not, but --

COUNCILMAN COHEN: Give me those numbers again. You said 6,000 --

MR. NADOL: 61,800.

COUNCILMAN COHEN: Okay, 61 thousand. It would qualify into that.

MR. NADOL: Okay.

COUNCILMAN COHEN: So that would raise it to homes that have a market value of presumably well over $100,000 very likely.

MR. NADOL: At that assessed value, you would be talking about homes with a BRT market value of close to $200,000. And in actual real-world market value, of closer to $250,000.

The program, as proposed under the ordinance, would also extend the abatement from the current five-year phased-out abatement to a phased-out ten-year abatement.

10/28/99 WHOLE COMM. - 970652

COUNCILMAN COHEN: What would be the rationale? When we talk of the Gas Works exemption for senior citizens, we talk about how there ought to be a means test. Why would there -- or should there be a means test in one area and not a means test in another area? I mean, what's the rationale behind giving an exemption to people whose market-valued property is $150,000 to $250,000, who obviously have the financial means to pay the real-estate tax?

COUNCILMAN KENNEY: To move.

COUNCILMAN COHEN: What?

COUNCILMAN KENNEY: To move.

COUNCILMAN COHEN: Well, everybody has the right to move if they so choose. I mean, are we in the business of kind of bribing everybody to remain here? I don't think Philadelphia's a terrible place; I think Philadelphia's a fine place. And I don't understand the panic about people moving.

We've got a problem and we ought to work on it, but I'm not sure that giving away a lot of goodies is the way to maintain --

MR. NADOL: Councilman, if I may

clarify the Administration's -- --

COUNCILMAN COHEN: I think they're going to more likely sell because they're now going to have something they're going to be able to advertise as a subject for sale.

MR. NADOL: Councilman, if I may clarify the Administration's position. Before you were able to join us, the Administration would be recommending that the eligibility cap be set at $25,000. There's not yet an assessed value. There's not yet an ordinance or an amendment to that effect before you.

But our position is that the existing $15,000 cap, which has been on the books for over 20 years, should indeed be raised upward to capture more middle-income and lower-income residents but that it should not necessarily be raised all the way up to the level proposed in the ordinance. And some of your colleagues, of course, take a different perspective and have their own rationale for promoting a different perspective.

But just to be clear about where the Administration is, we would set it at a $25,000

10/28/99 WHOLE COMM. - 970652

assessed value, which equates roughly to a $100,000 home.

COUNCILMAN DICICCO: (Inaudible, off mike.)

COUNCIL PRESIDENT VERNA: I'm sorry, Councilman, we can't hear you.

COUNCILMAN DICICCO: Okay, just point of order. Could someone answer the question, what is the median price home in Philadelphia today?

MR. NADOL: I believe it's in the 50 to $60,000 range.

COUNCILMAN DICICCO: Dave Glancy, maybe?

MR. NADOL: Bear with me.

(David Glancy comes forward.)

COUNCIL PRESIDENT VERNA: Mr. Glancy, please identify yourself for the record.

MR. GLANCY: Good morning -- or good afternoon, Council President and members of the City Council.

COUNCIL PRESIDENT VERNA: Good afternoon.

MR. GLANCY: My name is David Glancy, and I'm Chairman of the Board of Revision of

Taxes.

I don't have an aggregate number, but I can -- this may even be more helpful. In 1998, the median price for a row dwelling was $40,900.

COUNCILMAN COHEN: 40,000.

MR. GLANCY: 40,900.

COUNCILMAN COHEN: 40,900 for a row home?

MR. GLANCY: For a row home.

COUNCILMAN COHEN: So the people that describe themselves as "row home candidates" ought to be living in homes of -- is that the market value?

MR. GLANCY: That's the sale price, actually. These are actual sale prices for that year.

COUNCILMAN COHEN: And would you have any idea of about how many homes are in that category?

MR. GLANCY: Yeah. About 300,000.

COUNCILMAN COHEN: 300,000.

MR. GLANCY: Roughly.

COUNCILMAN DICICCO: Out of how many?

MR. GLANCY: Our total residential base

is somewhere in the vicinity of 450,000. We have 567,000 total parcels. About 450 are residential. And of that residential, I don't have the number in front of me, but I'm assuming it's somewhere about 300,000.

COUNCILMAN COHEN: I think the 300,000, I think that makes a sounds basis.

MR. GLANCY: A median price -- 1998 numbers are what I'm giving you. I have some historical numbers, but I think the 1998 numbers are relevant.

For semidetached dwellings, twin homes basically, it is $80,000, which is a significant jump from rowhouses to semidetached houses.

COUNCILMAN COHEN: How many fit in that category?

MR. GLANCY: You know, Councilman, I don't have that number today. I can get that for you. What our total base of detached housing is -- or semidetached housing is? Sure. In fact, what I will do is, I will submit to Council the numbers on rows, semidetached, and detached.

COUNCILMAN COHEN: Well, that would be very helpful very helpful.

10/28/99 WHOLE COMM. - 970652

MR. GLANCY: I think you would have that universe. And in that, somehow we will also include condominiums 'cause I think that's important. They don't necessarily fall within those categories, but we'll give you those numbers also.

COUNCILMAN COHEN: That would be very good.

MR. GLANCY: Okay. So anyway, the semidetached dwellings, for the 1998 sales -- median sales price of a semidetached dwelling, we $80,000.

And, finally, the 1998 median sale price for a detached dwelling, a single-family home, one single-family home, is $120,000.

And these are all median prices. The mean prices are somewhat higher, but these are median prices.

COUNCILMAN COHEN: What is the Administration's position with respect to the cap? Which of these groups would be included in and which would not be included in?

By "Administration," I mean the Mayor's official position.

10/28/99 WHOLE COMM. - 970652

MR. NADOL: Right. The Administration's position is the cap would be best set at $25,000 an assessed value. That would equate to just over $100,000 in actual sales price, and it would apply to approximately 95 percent of the residential dwellings in the City.

COUNCILMAN COHEN: It would include both the rowhouse category and the semidetached? Clearly, we don't have any figures on the detached.

MR. GLANCY: I'm sorry, Councilman, I wasn't clear. The median sale price for detached was $120,000 in market value -- I'm sorry, in sale price.

Now, $120,000 in sales price may equate -- "may," I say, to a BRT market value of about $120,000. Because, as you know, we're always a little bit behind of what the actual sales are.

So it may -- and I think Mr. Nadol is absolutely correct when he says that we would capture mostly $100,000 and below homes when he's talking about the BRT market value. And I think he's absolutely right.

COUNCILMAN COHEN: Are there any figures that have been submitted? If the Administration's recommendation were to be accepted, what would be the average annual loss in real-estate income? Have there been any studies made, say, over a five-year period, a two-year period, something where we could gage what we would lose in normal improvement work that's done or construction work?

MR. NADOL: It's a little hard to be precise about those estimates because current participation in the existing program is extraordinarily low.

And there are really two ways of assessing the impact of this. Do you look at the worse case -- and we've done that and we've provided those numbers to you. Or do you look at the --

COUNCILMAN COHEN: What are those numbers?

MR. NADOL: -- current participation in the program? If you look --

COUNCILMAN COHEN: I don't mean -- yeah.

10/28/99 WHOLE COMM. - 970652

MR. NADOL: If you look at the worse-case numbers, which would assume that everyone who's now taking out an L&I permit for improvements chooses to participate in the abatement program and that if they hadn't done so, Dave and his troops would have caught up with them immediately upon the completion of their improvements otherwise.

The order of magnitude of the impact is about three quarters of a million dollars a year for the City and for the School District each. That is a worse-case perspective.

Looking at it from the perspective of current participation in our existing five-year abatement program, there are literally only a handful of homeowners who currently take advantage of this program and the current lost revenue, as a result of the existing abatements, is -- it's de minimis, it's under $10,000 a year.

So I think the actual experience would fall somewhere between those two points. It would be real and quantifiable, but it would not be a serious threat to the City's overall finances. And if it succeeds in encouraging greater investment and greater retention of our residential population within the City, then it could have net benefits for all of us.

COUNCILMAN COHEN: Well, why doesn't the City accept the notion of unlimited cap, based upon what you're saying?

MR. NADOL: Again, we would -- we would propose focusing the program's resources on middle-income working folks and lower-income residents of the City. Our feeling is that it may not be as necessary to provide this kind of tax break for the City's more affluent residents. It -- you know, this is sort of a public-policy perspective that, you know, reasonable people can disagree about, but that is our position.

MR. LEVY: Councilman, I want to clarify. I'm not speaking, obviously, for the Administration, but I --

COUNCILWOMAN VERNA: Please identify yourself for the stenographer.

MR. LEVY: I'm sorry. I'm Paul Levy with Central Philadelphia Development Corporation.

I was obviously taking a somewhat different position from Mr. Nadol's. And I think

-- I very much respect the need to protect City revenues, but my point was that the real-estate tax accounts for only 20 percent of locally-generated revenue. And if in abating that, you can attract people into the City who will be paying wage tax and sales tax, then that loss of real-estate tax can be more than recouped in other taxes.

In the analysis that we have done of two admittedly Center City project -- and that's a different economy -- but the analysis we have done of two Center City projects shows that those projects in their first or second year more than repay the real-estate tax abatement in wage taxes, sales taxes, and other taxes that are generated by bringing people into the City.

And so, as I think Mr. Nadol said, there is reasonable grounds for disagreement, but we think that a more aggressive program in the absence of a cap, which is the recommendation that I'm making, could be more successful in attracting people in, and then we could have an upside in revenue. But there is clearly reasonable grounds for disagreement here.

10/28/99 WHOLE COMM. - 970652

COUNCILMAN COHEN: When you say that real-estate tax represents 20 percent of the revenue, do you mean the real-estate tax revenue that the City gets or the amount of revenue that the City plus the School District gets?

MR. LEVY: No, I was referring to City revenues at that point, that's correct. There is a separate issue that was raised earlier.

COUNCILMAN COHEN: 'Cause the School District, in fact, gets more real-estate revenue than the City does.

MR. LEVY: That's correct, that's right.

COUNCILMAN COHEN: I thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: You're welcome.

The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Madam President.

Just two comments on two things that were said during the course of that discussion. With all due respect to Mr. Nadol and to the Administration, I think that that position that

10/28/99 WHOLE COMM. - 970652

this program should be intended to be directed at lower-middle-income and poor people, I think is absolutely off base. I think the problem that we have is that the middle- and upper-middle-income people are the people that we're losing.

And as a result of Councilman Cohen's comment about not being panicked about the number of people leaving the City, I don't know what the Administration's position would be, but I'm certainly panicked over the fact that 150,000 of our middle and upper-middle-income residents have left the City over seven, eight year, despite -- despite the improvements that this Administration and this Council has made to government and to the Administration of government, we're still losing then.

And I'm going to give you a good example in my own personal life as to why I think this an effective -- and Councilmember DiCicco's levels are even higher 'cause I'm an advocate of no cap. I bought a house about 10 years ago for $80,000. I think my house now may be worth $80,000, about the same, or 85 -- certainly no more $90,000.

I have a link to the City because of my employment. Many people who leave the City obviously don't have -- they're not police officers, firefighters, or Councilpeople, so they have the ability to move, regardless of what it is they do for a living.

I'm in a position now in my house where I need a new bathroom definitely. And in order to do a new bathroom, I really would like to extend my daughter's bedroom to the back rear of the house, 'cause we have a little kitchen roof, and I'd like to extend it all the way back there in order to make the bathroom bigger so that the bedroom could become bigger. And my wife would really like to have a new kitchen too because the tiles and the floor are cracked and broken, and she don't like the cabinets.

And I figure the bathroom, on a conservative basis, $15,000. In order to move my daughter's room structurally back to the back of the house, we're talking perhaps another $25,000. And if I do a really modest renovation on my kitchen, perhaps $10,000.

COUNCIL PRESIDENT VERNA: That's cheap.

(Laughter.)

COUNCILMAN KENNEY: That's cheap. I'm giving a low-case scenario, a low-case scenario.

If you take the value of my home at $80,000 or $85,000 and you look at between $40,000 or, say, $50,000 in renovations that I need to spend to make my house comfortable, without that incentive, this middle- or upper-middle-income person could leave the City and buy a new home in Washington Township for the same amount of money.

And I think that the Administration needs to recognize, and I think they probably do, but they have other concerns as it relates to five-year plans and other kinds of things, and I recognize that.

But there is a need for some -- not even drastic, some innovative action. We cannot continue going on worrying about the number of low-income people we have in the City because we have a lot of them, and they're not moving to the suburbs. And the middle-income people, in many instances, are not moving to the suburbs 'cause they probably can't afford it.

It's the 40-year-old's and the

45-year-old's with 2 and 3 kids who are looking at their circumstances and saying, You know what? I'd like to invest this money in this house, I'm concerned about the neighborhood, I'm concerned about the schools, I'm concerned about other things.

But I also know that if I invest this money in this house, I'm going to pay an increase in my real-estate taxes, so I might as well go to Jersey. I might as well got to Jersey, pay the increased real-estate taxes there and save the $6,000 or $7,000 a year that I'm paying in private-school tuition. And I'm out of here and I'm never coming back.

And I honestly believe, and I think Mr. Levy has alluded to the fact that with Councilman DiCicco's efforts on the conversion legislation he did the, road map is there that is clearly successful. We've attracted people, we've retained people, we've renovated buildings that were not useful or weren't being used to their fullest potential.

And I can't believe based on the road map that was set up on that conversion

10/28/99 WHOLE COMM. - 970652

legislation, we could not apply the same concept here and attempt to save our middle-class taxpayers that carry the burden of the poor. They are the people who carry the burden of the poor, and they're not carrying them anymore in Philadelphia.

With all due respect, I know you have a position that the Administration is taking, and you have to articulate that. But I would take back to your administration our view -- at least my view and Councilman DiCicco's view and a couple others. And that is, if we don't figure out a way to save that upper-middle-class and that middle-class taxpayer, forget it, turn the lights out, it's over.

Thank you.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any other questions from members of the committee?

(No further questions.)

MR. NADOL: Council President, I would like to clarify one issue that was asked about earlier during some of the other discussion. Mr. Glancy was able to help clarify the matter of whether each separate improvement, if you make more than one improvement in a period, would qualify for up to the maximum cap provided under the ordinance, or whether you have to aggregate those improvements and then bump up against the cap.

As explained to me, the way the program's currently administered, each separate improvement will qualify up to the amount that's specified in the ordinance, whether it's the existing cap or some future cap that's higher. So under the new ordinance, if it's set at $41,200 if you made one improvement -- if you got the new bathroom and the bedroom extension this year and did the new kitchen right in a couple of years and spent 41,000 each time, they would both qualify so long as the overall assessed value of the house stays within the eligibility cap set with that part of the ordinance.

And in practice, what often happens is that as more and more improvements are made, the underlying assessed value will bump the house up above the point where it qualifies under the existing limits. So, effectively, you may not be able to do improvement after improvement; but technically, you could so long as you're not caught by the other cap.

And I know that's a little confusing, and I hope that helps clarify it.

COUNCILMAN KENNEY: Thank you, thank you.

COUNCIL PRESIDENT VERNA: Mr. Nadol, let me ask a question on that, if I may. Let's say Mr. Kenney does all of the necessary improvements.

COUNCILMAN KENNEY: You mean Mr. Kenney's contractor because Mr. Kenney can't do it.

(Laughter.)

COUNCIL PRESIDENT VERNA: Okay, I know. And he's there for three years and then decides he's going to sell. I buy the property. Am I eligible for that same abatement? Doesn't that come with the property?

MR. NADOL: Yes.

COUNCIL PRESIDENT VERNA: It does.

MR. NADOL: Yeah, it does carry forward.

10/28/99 WHOLE COMM. - 970652

COUNCIL PRESIDENT VERNA: For the record, I wanted that to be known.

Councilman Cohen?

COUNCILMAN COHEN: Does that 41,000 exemption -- let's assume that to be the cap. Is that the cap enter for one year?

COUNCIL PRESIDENT VERNA: Yes.

COUNCILMAN COHEN: Or is it a lifetime cap for the property? What is the cap? How long does it extend? Suppose I do $10,000 every year?

MR. NADOL: You would be able to do that, and each improvement would be eligible separately so long as the underlying assessed value of the property itself is a result of all --

COUNCILMAN COHEN: Why would that be able to do it?

MR. NADOL: I'm sorry?

COUNCILMAN COHEN: Is it because the cap is an annual cap? Within what time limit does the cap apply?

MR. NADOL: The cap applies for each improvement that is done, each application that you make. Then under the current program, the abatements that follow from participation in the program lasts for five years, and it's proposed to be extended for ten years.

COUNCILMAN COHEN: Is it possible that an improvement can be partially exempt because half of it fits within the cap and half of it will be ruled outside the cap? Or does the whole exemption fail?

MR. NADOL: It -- the partial amount up to the level set by the cap would be eligible for the abatement under either the existing or the proposed new program.

COUNCILMAN COHEN: So the real cap is the underlying value of the property as a practical matter, isn't it? Isn't that the real cap?

MR. NADOL: That certainly can be the real cap, yes. That certainly can prohibit abatements that otherwise would have qualified under the per-improvement limit.

COUNCILMAN COHEN: And the only way that you could get a whole lot of work -- I mean, the $100,000 worth of work -- would be to buy a shelf a house, you know, buy a house that's totally dilapidated, and then have a series of improvements until you improve it and put it in a condition of, say, worth about $100,000. Under the Administration's policy, under Mr. Levy's recommendation, you can buy a hulk of a house and just build a whole new house and then have it all come under the cap up to the $100,000 figure, right? I'm just trying to understand what you're talking about.

MR. LEVY: Yeah. Well, I think you said it correctly before. The real limitation is the value of the property.

COUNCILMAN COHEN: It's the value of the property, right.

MR. LEVY: You could buy a house that's only -- you could put $100,000 into a house that's only worth $10,000 even after you've done it, based on other conditions, and the City can't give you an abatement for $100,000. The maximum is set by the value of the house.

COUNCILMAN COHEN: And that would be true for new construction?

MR. LEVY: Absolutely. And that's why I suggest -- I mean, I just -- if you just think through the administrative nightmare of saying, I did $14,000 this year, 12,000 next, does it add up, do people start misrepresenting what they're doing? That's why I'm suggesting having no cap whatsoever.

The goal is to get renovation properties, to get new construction, to retain and attract residents, and I think upside is there in wage tax, sales tax, and it just -- not to take issue with Councilman Kenney, but if you keep middle-class people in this city, you also stabilize the value of low-income homeowners' properties as well, 'cause if middle-income people are leaving, then poor people are living in houses they own see their equity evaporating.

So I don't think it's an either/or choice. The more middle-income and upper-income people we have in this city, the higher the value of low-income people's property is too. So I think we're benefiting everyone in this.

COUNCILMAN COHEN: Well, without respect to whether abatement is a proper procedure as a means of keeping folks, I think it's very urgent to keep every level of people in the city. I think -- and I'm very disappointed that the

Administration has never carried out a campaign with all the businesses that it deals with to try to bring all the executives into the city. I think we have a huge housing market that is awfully good for every level of people. I don't know why it's assumed that people have to move outside the city as soon as they come to Philadelphia or bring their businesses here. I'm all for that.

I'm just dealing with the abatement question, and I would like to translate into value, I'd like to translate into value -- into dollar value what the savings is.

First, do we have any statistics as to the average cost of improvements over some time period that are now being done? What's the average improvement value, say, when people take out contractors, take out permits? Don't they usually have to take out permits to do the improvement work, say, the kind that Councilman Kenney talked about?

MR. NADOL: I think that most -- they usually -- it's always required to take out the permit.

10/28/99 WHOLE COMM. - 970652

COUNCILMAN COHEN: All right. And there must be a database available to determine what the level of expenditure for improvements is per household.

MR. NADOL: Yes. We have -- in developing the estimates of the cost impact for this program that we're submitting to you, our staff did analyze actual L&I permit data over a six-year period.

COUNCILMAN COHEN: And what would be the average cost of improvement?

MR. NADOL: I'm hoping I can put fingertips on that for you quickly.

COUNCILMAN COHEN: Well, I'm going to ask Mr. Glancy to translate it in terms of tax savings that would occur. I'm just trying to think in terms of specific dollars that we're talking about.

MR. NADOL: The average, as we've identified it, would be just under $15,000 for a typical improvement, but there's a great deal of variation and there are many that are much more than that, and there are --

COUNCILMAN COHEN: Many that are much

10/28/99 WHOLE COMM. - 970652

less.

MR. NADOL: And there are, of course, many that are much less. The range -- you know, the dollar value for improvements really -- it doesn't all cluster around that $15,000 average. There are significant groups at varying levels.

COUNCILMAN COHEN: Well, if we get figures from Mr. Glancy at 10 and 15 and 20,000, wouldn't that give us a pretty good idea?

MR. NADOL: I'm sorry, Councilman. I'm pretty much --

COUNCILMAN COHEN: If we were able to get from Mr. Glancy, the Chairman of the Board, average tax dollars that are involved in improvement levels 10,000, 15,000, 20,000, you know, how much will that increase the real-estate tax on average? I realize that every case is an individual case. But then we can talk realistically of what we're talking about.

Would that be possible, Madam Chair?

COUNCIL PRESIDENT VERNA: Certainly.

MR. NADOL: Councilman, we have done analysis working from our study of actual L&I permit data and certain assumptions about other increased participation in the program as a result of changing the eligibility requirements for the program, and that information is submitted in detail in the written testimony.

COUNCILMAN COHEN: Well, the way the information is submitted in detail and the ability of Councilmembers to comprehend it may be two different things. I'm asking from my ability to comprehend, and other Councilmembers may have their own questions to ask.

MR. NADOL: I'm sorry, Councilman. Having helped to author the testimony, I can tell you my ability to comprehend it is sometimes limited. The real-estate tax issues can become very complex. What specifically is your question? And we'll do our best.

COUNCILMAN COHEN: Well, if someone puts in an improvement of $10,000, what increase in taxes is he likely to face now in real-estate taxes?

MR. GLANCY: Councilman, you kind of threw me off 'cause I just did the $15,000 improvement, which you had talked about initially. At $15,000, assuming again, the assumption again is that we capture that entire market value as a BRT market value, it's about $396 in real-estate taxes.

COUNCILMAN COHEN: And, Mr. Levy, you think that kind of savings plays a large role? I can see why you think it plays a large role in a whole house at 50 to 100,000 in improvement.

MR. LEVY: You know, let me go back to the --

COUNCILMAN COHEN: What would be Councilman Kenney's illustration? What would he save? I want to see whether the amount of an expenditure, how it corresponds to the tax.

MR. GLANCY: What was the total added in your example?

COUNCILMAN KENNEY: 50,000.

MR. GLANCY: 50,000?

COUNCILMAN COHEN: That was your top figure, right?

MR. LEVY: Councilman, if I could go back to a question that the Council President had asked before. You know, when the ten-year abatement was passed here in Center City, in addition to the media coverage, we certainly were in the business of publicizing that as a private-sector organization.

And when you shine a light on an incentive, it attracts people to use it. And I think the economic incentive is part of a telling people that incentive exists, which we're not doing as good a job on, and I think we would all recognize that that would lure people, and they'd say, Oh, I can get a break if I do that. Everyone of us will go for a sale.

And I think part of what we're talking about here is that advertising these abatements will attract people even if the cash value in some cases is small, but it helps equalize those disadvantages you can see for living in the city and the advantages elsewhere.

So, again, my broad point here is simply that we are losing people even from the neighborhoods that have the highest volumes of construction in the city, and I think Council is in a position to take some dramatic actions here, which I don't think cost very much money, but which could begin to turn around and stabilize neighborhoods and attract people.

COUNCILMAN COHEN: Well, my feeling is that the Administration's public policy determination is probably a good one. It will be awfully difficult, I think, to convince people in the rowhouses that people who buy homes at 100 to 200,000, 300,000 a year ought to get abatements. You know, I think there's a real element of fairness, and I suspect that that's what concerns the Administration as a public policy matter and, therefore, they don't favor an unlimited, you know, cap. They don't favor the removal of any cap. That, I assume, is what the public policy consideration is. But I find it interesting.

What would be the cost? What would be the --

MR. GLANCY: Yes, Councilman, to answer your question about Mr. Kenney's example, again, assuming that all 50,000 of the value added is captured by the board, it is about $1,322 per year. And I might note, parenthetically, that we have to remember, if this legislation were to pass, that would be a 10-year benefit. Even at the $396 a year, that's a substantial benefit for someone at the $15,000 level.

10/28/99 WHOLE COMM. - 970652

MR. NADOL: To clarify, it would be a 10-year phased-out benefit.

MR. GLANCY: Right.

MR. NADOL: It would not be at that level each year. It would decline by 10 percent a year.

MR. GLANCY: That's correct. I was just getting at a 10-year flat, and that was incorrect.

COUNCILMAN COHEN: It reduces by 10 percent each year.

MR. GLANCY: Correct, correct.

COUNCILMAN COHEN: All right. I find that very helpful. Thank you.

MR. GLANCY: You're welcome.

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you.

Just one point on the issue of recapturing the value of the improvement. And this is something that we debate when we talk about TIFs.

The improvement doesn't get done, so we don't capture the value of the improvement 'cause if the person -- if I, in this particular situation, decided to move as opposed to improve, you don't capture anything. What you may capture is the continuing value of the property from me selling it to someone, but you're not giving away the increased value 'cause you never got it in the first place 'cause I'm out of here.

I mean, I think that that's something that the Administration hasn't acknowledged. It may understand it but it hasn't acknowledged that if I don't do that improvement, if I do my calculations and decide it's better for me to pull the plug and go, you're not giving anything to me because I wasn't going to do it anyway; I was going to be out of here. So not only do you lose me but you lose my wage taxes and sales taxes and everything else.

MR. NADOL: Well, I think we certainly acknowledge that that can happen, and in many cases, does happen, and only in the TIF example but in the conversion abatement program. I think there's very little question that that program has stimulated activity that wouldn't have happened otherwise, and it's terrific.

10/28/99 WHOLE COMM. - 970652

For the purpose of developing our cost analysis and for our evaluation of this program, we did look at current levels of L&I permit activity. We did not assume any increase in that activity or in improvement activity as a result of an expanded abatement. To the extent that you're right, and this kind of an abatement program does stimulate that kind of new investment in the city. It would be terrific, and it would be a net fiscal benefit to us as well. That is not reflected either way in our numbers. Our numbers assume current levels of activity.

COUNCILMAN KENNEY: And by the way, just on Mr. Glancy's example of $1300 that it would cost me annually to do this, I know scores of people who have moved out of my neighborhood for $1,000 saving in auto insurance. So, I mean, that is a significant amount of money for a middle-class, upper-middle-class family with kids, that $1300 means something.

Thank you.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any other questions?

Councilman Cohen?

COUNCILMAN COHEN: Is there any legal opinion on it? How does this fit within the uniformity clause in the State constitution?

MR. NADOL: The program already has existed and has been in place for more than twenty years with very much the same kind of parameters. All that's being proposed today is to adjust some of the eligibility thresholds upward. So it's --

COUNCILMAN COHEN: I'm not asking that, I'm not asking that. Has there been a court challenge ever. The uniformity clause is often interpreted -- for example, how some new homeowner coming in, taking a shell of a house and building a house, isn't going to pay much of a real-estate tax for ten years, as against people who, you know, pay real-estate taxes constantly.

COUNCIL PRESIDENT VERNA: No, they would pay what they would normally paying.

COUNCILMAN COHEN: And I wonder how the courts have treated the question of uniformity. They're usually very strict in Pennsylvania on that.

MR. NADOL: You're right, they usually are. In this case, the Law Department just

10/28/99 WHOLE COMM. - 970652

advised me that there's a specific exemption to the State constitution that provides for this type of abatement program, so that in this case, working within certain bounds that are set at the State level, we do have the flexibility to offer and to expand this type of program.

COUNCILMAN COHEN: Okay. Thank you, Madam President.

COUNCIL PRESIDENT VERNA: Thank you.

The Chair recognizes Councilman DiCicco.

COUNCILMAN DICICCO: Thank you, Madam President. Just a brief statement.

In this chambers over the four years that I've been here, I have had the opportunity to introduce, support, and help pass legislation primarily for developers in Center City. We've had a lot of discussion and debate on whether TIFs are the right way to go and, obviously, I had supported those.

I think this is an opportunity for this Council to give the same kind of tax relief or tax incentives to working-class folks that we do to big business and developers. I mean, I'm still for development, and I will always continue probably, for the most part, to support those tax initiatives, the TIF initiatives, but this is an opportunity to do the same type of legislation at a lower level for folks who are homeowners and who are not big developers.

So I mean, I would urge that --

COUNCILMAN COHEN: (Inaudible, off mike.)

. . . homeowners that would be pretty affluent, not just for the rowhouses.

COUNCILMAN DICICCO: But it's for everybody. They're Philadelphians also.

COUNCILMAN COHEN: Well, we've had that argument --

COUNCILMAN DICICCO: See, just because you happen to be able to afford a quarter-of-a-million-dollar home, I don't think you should be penalized.

COUNCILMAN COHEN: Well, when it comes to senior citizens' exemptions, we don't say it's for everyone; we say it's wrong that it's for everyone. Certainly somebody that can afford to pay gas bills ought to pay the full rate and ought not to get the discount. So why not here?

COUNCILMAN DICICCO: But I think the people at the upper end of the economic ladder are the people that are paying for the people at the lower end not to have to pay gas bills. And those are the people that we need to keep here.

COUNCILMAN COHEN: Well, I don't -- I'm just troubled by that dichotomy of thinking. We argue that it's unfair to have any exemption for anybody and senior citizens because maybe somebody that's affluent may get that senior-citizen discount.

COUNCILMAN DICICCO: But this applies to everyone; it doesn't just apply to affluent people. That's a very small percentage of the population.

COUNCILMAN COHEN: Well, the senior citizen discount applied to everyone, to every senior citizen.

COUNCILMAN DICICCO: Well, I think you're mixing apples and oranges here.

COUNCIL PRESIDENT VERNA: Yes, Councilman?

COUNCILMAN KENNEY: Point of order.

Didn't we recently eliminate the senior citizen 10 percent discount on the gas?

COUNCIL PRESIDENT VERNA: Not that I'm aware of.

COUNCILMAN KENNEY: Okay. I thought -- I mean, the way Councilmember Cohen was talking, I thought we had done something that eliminated that and put a means test on it. And to date, as far as I know, everybody collects it.

COUNCILMAN COHEN: (Inaudible, off mike.)

COUNCILMAN KENNEY: I mean but there's no means test, or we didn't change anything lately.

COUNCILMAN COHEN: There's no means test.

COUNCILMAN KENNEY: Oh, okay. I just thought that --

COUNCILMAN COHEN: (Inaudible, off mike.) . . . just saying that there ought to be a means test, and I'm wondering why those folks need a means tests on a senior-citizen discount but don't require a means test here.

COUNCILMAN KENNEY: Well, maybe you

ought to ask the Gas Works about that.

COUNCILMAN COHEN: All right, thank you.

COUNCIL PRESIDENT VERNA: You're welcome.

Has the Deputy Commissioner of L&I arrived?

(David Perry comes forward.)

MR. NADOL: We did have information provided by L&I. I don't believe, oh, I'm sorry, did you want to --

COUNCIL PRESIDENT VERNA: He's here.

MR. NADOL: We do have information confirming from l L&I that indeed information about the program is included on the permits that they issue. Beyond that, there is not currently an extensive effort to promote the abatement program.

COUNCIL PRESIDENT VERNA: And the question is, why not?

Please identify yourself for the record.

MR. PERRY: Yes. Good afternoon, Council. My name is David Perry, and I'm Deputy

10/28/99 WHOLE COMM. - 970652

Commissioner for Construction Services for the Department of Licenses and Inspections.

Currently, there's two methods that we use to notify people of the tax abatement program. The first method is with the building permit application itself. There's a message at the bottom of the application that talks about the tax abatement program, and it has a phone number and address for additional information.

COUNCIL PRESIDENT VERNA: In real small print. You'd have to really. . .

MR. NADOL: Yes.

COUNCIL PRESIDENT VERNA: Oh, I could really see it from here. Can I see that, please?

MR. PERRY: And the second one we have is on the actual --

COUNCIL PRESIDENT VERNA: Can I see that, please?

MR. PERRY: Oh, sure.

COUNCIL PRESIDENT VERNA: Would I be able to read it without my glasses?

Nope, I need my glasses. That is a stamp, is it not?

MR. PERRY: Excuse me?

10/28/99 WHOLE COMM. - 970652

COUNCIL PRESIDENT VERNA: That's just stamped on, isn't it?

MR. PERRY: Yes, it is.

COUNCIL PRESIDENT VERNA: And it's really not very clear, is it?

MR. PERRY: The new applications that we have do have it printed on there. That was an older application, and we had to hand-stamp the tax abatement notice on them.

COUNCILMAN DICICCO: Could they do it in bold type? I mean, I think these are things that we should be advertising. I think we need to let people know about this.

MR. PERRY: Well, certainly with the next revision of that form, we will make that message far more prominent than it is now. I do agree that it is kind of buried in the boilerplate on the permit application, and we can definitely do that. We will make it larger and more prominent.

The second method that we use to notify people of the tax abatement program is on the building permit form itself. It is listed on there -- again, the same information concerning address and phone number.

COUNCIL PRESIDENT VERNA: My question was, why are so few residents participating in the existing abatement program? And why doesn't the City actively advertise that?

And I don't think this is a very good example of what we're doing.

MR. PERRY: Of all the building permit applications we get in, I would say that maybe 200 of 'em would even qualify for this particular program. There's very few that are actually processed through L&I.

The typical applicant that comes in to get the building permit is not the property owner. It could be the architect, the engineer, or the contractor who. Regardless of what information we give them, that may not get back to the building owner to even realize that they have a possible tax abatement to take advantage of.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any questions from members of the committee?

The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Madam

Chair.

I want permission to leave the chamber on personal business. If any of the bills before us come up, I would like to be recorded as voting aye and any -- and also aye on any amendments that are agreed to by the primary sponsor.

COUNCIL PRESIDENT VERNA: All right, and --

COUNCILMAN KENNEY: And I shall return hopefully within about an hour and a half.

COUNCIL PRESIDENT VERNA: You'll back by what time? We're timing you.

COUNCILMAN KENNEY: 2:15.

COUNCIL PRESIDENT VERNA: Okay, thank you.

Are there any other questions on this particular bill?

(No further questions.)

COUNCIL PRESIDENT VERNA: Seeing none, I would like the record to reflect that Bill No. 960663 is being withdrawn at this time at the request of the sponsor.

I would -- I know that everybody here is waiting to hear on the transfer tax bill, but

10/28/99 WHOLE COMM. - 970214

there have been a number of Councilmembers saying that they will be back very shortly, and I think in all fairness to everyone, perhaps we ought to consider that as our last bill, if you don't mind waiting.

The next bill to be considered is Bill No. 970214. I would like Mr. McPherson to please read the title of the bill.

MR. MCPHERSON: Bill 970214, an ordinance amending Section 19-1303, Paragraph 4 of The Philadelphia Code, entitled "Authorization to Offer Exemption From Real-Estate Taxes on New Construction of Residential Properties," by changing the period of exemption from three years to ten years, under certain terms and conditions.

COUNCIL PRESIDENT VERNA: Mr. Nadol?

MR. NADOL: Thank you. This proposed bill would expand the City's existing exemption for new residential construction. Currently, the City provides a three-year full abatement, and this bill would seek to change this exemption period to a ten-year phased-out exemption.

The one important consideration here is that under the current State Enabling legislation for this type of abatement program, we do not have the authority to implement this kind of a ten-year abatement period. So any action on this bill would only be the first step toward putting the actual program in place.

In terms of the potential cost of this program, in terms of the incremental loss in revenues over and above the existing three-year abatement, we estimate that the cost, with current levels of construction activity, would be relatively modest. In the aggregate, once the full program rolls into effect, it would only be approximately half a million dollars per year, which would, again, as with any of these property tax abatement, be split roughly evenly, slightly more by the School District, and a little less by the City.

So the cost impact of this with current construction levels would be relatively low, and the average benefits to an individual homeowner would be significant over the full ten-year phased-in period of the abatement, assuming approximately a $75,000 market value property which for new construction -- a BRT market value

10/28/99 WHOLE COMM. - 970214

was the basis for our analysis. This would save the participating homeowner nearly $5,000 over the ten-year period, which we think might indeed provide a significant incentive to participate in the program and to make the kind of investment that the program is designed to encourage.

In addition, we do strongly support the phased-in approach proposed under this ordinance because in our Revenue Department's experience, there can be an assessment shock for people who experience the current three-year full abatement and then drop off the program abruptly. Under this phased-out approach, taxpayers would be eased into paying the full freight for their real-estate taxes while still receiving a substantial incentive beyond what's currently provided.

So for all of those reasons, and in recognition of many of the issues we've already talked about in connection with the earlier propose ordinance, the Administration supports Bill No. 970214, which we believe could create a powerful new tool for generating increased residential investment in the City.

COUNCILMAN COHEN: What happens if

somebody sells the house? How many years does the new owner get? Let's get it on the record.

Well, isn't there somebody from the City Solicitor's Office that can give us an answer? I'd rather not speculate.

MR. NADOL: I certainly would not want to speculate on the record. We will ask the City Solicitor to clarify that point.

(Mr. Nadol confers with colleagues.)

MR. NADOL: Councilman? I apologize for the delay in answering your question, Councilman. Councilman, I apologize for the delay.

To answer your question, we did just review the original ordinance being amended, and this abatement does run with the property. If the property changes hands, the abatement nonetheless continues.

COUNCILMAN COHEN: The abatement will what?

MR. NADOL: Continues. It continues with the new property owner.

COUNCILMAN COHEN: With the new property owner?

10/28/99 WHOLE COMM. - 970214

MR. NADOL: Correct.

COUNCILMAN COHEN: For how many years does the new property owner have the abatement?

MR. NADOL: Through the full ten-year term of the abatement.

COUNCILMAN COHEN: Does it begin in the fourth year --

MR. NADOL: Yes.

COUNCILMAN COHEN: -- if he purchased the proper after three years of abatement?

MR. NADOL: Yes, correct. The abatement runs with the property. So that abatement is on the property for the ten-year period, and it doesn't start over if the property is sold.

COUNCILMAN COHEN: And is that the decision of the Law Department?

MR. NADOL: Yes.

COUNCILMAN COHEN: That's their interpretation?

MR. NADOL: Yes.

COUNCILMAN COHEN: Because, you know, if the language is loose, we run the possibility of creating properties that are tax-exempt forever, you know, or partially tax-exempt.

I'm just worried about -- incidently, is there any immediate urgency? I'm wondering why this bill, say, was scheduled for today, a week before the election, when Councilmembers are overwhelmed with all kind of commitments. Shouldn't we have had the hearing a long time ago, or is there any reason why it can't be heard right after the election?

I don't hear anything about how anybody has a bank loan that has to close by October the 31st and, therefore, we've got to have the hearing this week. I mean, that's the reason we're having difficulty maintaining the --

COUNCIL PRESIDENT VERNA: Councilman, I think you're asking the wrong person.

MR. NADOL: Thank you.

COUNCILWOMAN VERNA: These are not Administration bills; they're bills that have been introduced by Councilmembers, and I believe Councilman DiCicco would like to be recognized at this time.

COUNCILMAN COHEN: Yeah, go ahead. I'd like to know why can't this bill -- 'cause there

10/28/99 WHOLE COMM. - 970214

seems to me -- the bill seems to have a lot of merit; it seems to also have a lot of rough edges. I'm interested in doing something that doesn't have all of these rough edges. The bill seems to have some merit; I think it deserves a full hearing and not just speculative answers.

MR. NADOL: The Administration shares your feeling that this bill has an enormous deal of merit. We support this bill. The questions --

COUNCILMAN COHEN: Well, why do we have to put it in --

MR. NADOL: The questions that you were asking pertain to sections of the existing ordinance that have been in place for many, many years, without problems arising out of those provisions. The portions of the bill that are proposed to be modified are relatively narrow and, I think, relatively straightforward and clear in their intent.

COUNCILMAN COHEN: Well, but when you raise amendments to a bill, you raise again for consideration the whole bill. It gives the legislative body an opportunity to reexamine it. There may be things that we can improve in the whole bill. You don't just consider the amendments; you've got to consider what the amendments are attached to.

But I find all through this that there are many answers that people aren't certain about. You know, with due respect to Mr. Levy, who is very well informed, there were areas that he wasn't sure of. I think we ought to be sure of what we're doing. If it's a good thing, we're going to want to do it, and we're going to want to do it in the best possible and most effective way.

But I really raise the question of why it's being pushed through now. I don't know why it can't be considered in the month of November.

COUNCIL PRESIDENT VERNA: Councilman DiCicco?

COUNCILMAN DICICCO: Thank you, Madam President.

I have a question because I wanted to include multifamily dwellings, and I believe in the legislation, in Section b., under "Definitions," in parentheses, number 3, "Eligible dwelling unit means a dwelling unit

10/28/99 WHOLE COMM. - 970214

located in a single house, double house, duplex, townhouse, rowhouse, apartment building, condominium unit, or cooperative unit, where the dwelling unit is owner-occupied."

My concern is -- I would like to see this legislation with Council's approval, obviously, relate to a developer for the development of multifamily apartment buildings, where the developer or the owner of the property does not have to reside in it. I mean, we do TIFs for -- we do TIFs for hotel and other high-rise developments. This is a way, I think, in which we can offer some abatement to the developer without having to go through the TIF process, and I want to make it available to developers.

Now, what would need to be done in terms of an amendment?

MR. NADOL: On --

COUNCILMAN DICICCO: Same bill. 970214.

MR. NADOL: Unfortunately, Councilman, that is an issue that I think we would need to go back and look at a little more carefully. We did do our best to analyze the bill as presented. Our

10/28/99 WHOLE COMM. - 970214

cost estimates did not contemplate the type of expanded coverage that you've just expressed an interest in. And without being able to really look at those costs, it would be hard for us to take a position.

In addition, we would need to have the Law Department look further at the State Enabling Act to see whether there might be conflicts there. Of course, as we've already noted, we'd have to change the State Enabling Act anyway in order to put this proposal into place.

COUNCILMAN DICICCO: Right. I was prepared to put an amendment to that effect at the end of the hearing.

MR. NADOL: But that might be another area of the State Enabling legislation where we're constrained. I'm not sure; it's something we just would have to go back and look at further.

COUNCIL PRESIDENT VERNA: Thank you.

At this time, I would like to make a statement. The Council will stand in recess until 2:15. So, Mr. Nadol, if you would be back then, I'm sure there are a lot of other questions that we would like to ask.

MR. NADOL: Of course.

COUNCIL PRESIDENT VERNA: Thank you all. See you at 2:15.

(Break taken.)

\- - -

(Proceedings resume.)

COUNCIL PRESIDENT VERNA: We will now resume the public hearing of the Committee of the Whole.

Mr. Nadol, you were giving testimony on Bill No. 970214.

MR. NADOL: Thank you, President Verna. I believe we concluded our formal testimony on that bill, but I would be happy to answer any questions.

COUNCIL PRESIDENT VERNA: I just have one question. Assuming that the State will make the amendment in the future, will homeowners who purchase a new house after our enactment of this bill, but before the date that the State does the necessary amendments, qualify for the abatement?

MR. NADOL: The Act, as I understand it, would not -- or rather, the City ordinance would not become effective until the State law would be changed. So the expanded abatement would not apply for the property owners that you just inquired on behalf of.

COUNCIL PRESIDENT VERNA: Okay, thank you.

The Chair recognizes Councilman DiCicco.

COUNCILMAN DICICCO: Thank you, Madam President. But they still would qualify for the three years.

MR. NADOL: Sure, they would certainly still qualify for the existing abatement program.

COUNCIL PRESIDENT VERNA: Do any of the Councilpeople have any questions regarding Bill No. 970214?

(No questions.)

COUNCIL PRESIDENT VERNA: There being none --

COUNCILMAN DICICCO: Madam President?

COUNCIL PRESIDENT VERNA: Oh, I'm sorry.

COUNCILMAN DICICCO: Let me go back to my earlier question before we recessed. Do I need to do an amendment or do I need to change the language of the bill to be able to include multifamily dwellings, the entire multifamily dwelling as opposed to the unit in a multifamily dwelling?

Do you have any suggestions or comments on that?

MR. NADOL: Yes. As indicated before the recess, that's something that will require more research both by the Law Department and on our part. We would like to further run the numbers to see what we think the fiscal impact of that would be. And we've not been able to do that during the brief recess that we just have had.

COUNCILMAN DICICCO: Again, I base my concern or my interest in possibly adding that language to the bill, or amending the bill, is that we probably could effectuate that through a TIF. However, if we make it part of this bill, it may make it a little bit simpler and easier to take advantage of an abatement as opposed to doing it by way of TIF. So it almost becomes almost a matter of right for a new development.

MR. NADOL: We'll certainly be happy to look at that.

COUNCILMAN DICICCO: Thank you. Thank you, Madam President.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any other questions of Mr. Nadol on Bill No. 970214?

(No further questions.)

COUNCIL PRESIDENT VERNA: Seeing none, I would ask Mr. McPherson to please read the titles of Bill No.'s 980303 and 980927.

MR. MCPHERSON: Bill No. 980303, an ordinance amending Chapter 19-1400 of The Philadelphia Code, entitled "Realty Transfer Tax," by decreasing the rate of the tax beginning July 1, 1999, by amending the definition of "acquired real estate company," the transfer of which is subject to the tax; and by limiting to individuals the exception for reclaiming purchase money deeds in lieu of foreclosure, all under certain terms and conditions.

Bill No. 980927, an ordinance amending Chapter 19-1400 of The Philadelphia Code entitled "Reality Transfer Tax," by providing that only the transferor shall pay the tax due under this chapter, under certain terms and conditions.

10/28/99 WHOLE COMM. - 980303, 980927

COUNCIL PRESIDENT VERNA: Councilman Mariano, do you wish to be recognized?

COUNCILMAN MARIANO: Yes, Madam President. I have to leave on some personal business, and I would like to be stated as voting yes on all bills and any amendments.

COUNCIL PRESIDENT VERNA: Thank you.

COUNCILMAN MARIANO: Thank you.

COUNCIL PRESIDENT VERNA: We're ready for your testimony on these bills.

MR. NADOL: Okay, thank you.

Both of the bills that we're now considering involve the City's real-estate transfer tax. As I think Council well knows, the City now collects a 3 percent real-estate transfer tax on top of which the Commonwealth gets a 3 percent transfer tax. While I am aware that there are changing market conditions, and we do sometimes see significant year-to-year changes in market conditions, this tax revenue represents a major component in each of the last two fiscal years. We've collected more than $70 million as a result of this tax.

Bill No. 980303 would propose to cut

the City portion of this transfer tax in half, in turn cutting our revenues from this tax in half, which would open up a gaping hole in the City's budget. According to the projections that are built into our current approved FY 2000 through 2004 five-year financial plan, this proposed tax rate reduction would result in revenue loses averaging over $33 million per year over each of the next 5 years, with a total projected loss over the course of the plan of over $166 million.

Given the size of the revenue loss that this tax rate change would open up, and given some of the serious budgetary challenges that we face over the course of that five-year period just ahead, this proposal represents a matter of enormous concern and is not something that we could support because of its fiscal impact. Moreover, while the Administration is certainly not enraptured by the real-estate transfer tax, if you look at the various taxes that the City now includes as key to our revenue generation and you look at the different taxes that might be reduced and that we've been working hard to reduce, it's not at all clear to us that we would get the greatest return on our investment by making the real-estate transfer tax a higher priority for tax reduction.

Time after time, study after study, the devastating impacts of the wage tax and the business privilege tax have been shown and well documented. However, in terms of the transfer tax, the connection between that tax and any actual economic activity in the City is not clear at all. We've looked at different years during which the transfer tax has either increased or decreased, and we have not seen a strong relationship between the rate that the City imposes and the actual home sale activity. , while of course, there may be some relationship, the much more dominant factors include interest rates, personal income levels, economic cycles, and other considerations that are really far more powerful in determining the choices that people make.

So given the relatively minimal impact that we think this change would have in terms of the City's economy, given the crying need for further tax reduction in other areas that are much more harmful -- again, such as the wage tax and business privilege tax -- and given the tremendous revenue loss that cutting the transfer tax in half would bring about, this bill is something that we do not support and that we view as a very serious threat to the City's financial health.

In addition to cutting the rate for the real-estate transfer tax, Bill 980303 also does propose several amendments to the existing ordinance designed to close certain loopholes in the current transfer tax and in the City's ability to collect the current transfer tax. We believe that many of these proposals have a good deal of merit and, in fact, do address some real problems that we've seen in our efforts to enforce and collect upon this tax. But in contrast to the revenue losses that we would see resulting from the rate reduction proposed in this bill, the benefits of closing those loopholes are really de minimis and would come nowhere even close to offsetting the serious fiscal problems that this bill would create for us.

In terms of Bill No. 980927, this bill would seek to place the formal liability for payment of the transfer tax on the person selling the property, the transferor, and not continuing the current situation whereby the law is really excellent, but it's traditionally and historically a tax that's split between buyer and seller. From a revenue perspective, we would consider this ordinance to be essentially revenue-neutral and not to have any significant impact on the City' finances. But the Administration's position is that in order to permit home buyers and home sellers the maximum flexibility to structure transactions in a way that they see fit, that we would prefer to continue the current status quo and not to explicitly shift this tax burden onto either party in a real-estate transaction.

COUNCIL PRESIDENT VERNA: Mr. Nadol, you have indicated how the Administration feels about the bills. Is it your opinion that the Mayor would veto either one of these bills if City Council passed them?

MR. NADOL: I don't want to --

COUNCIL PRESIDENT VERNA: Have you been informed of that?

MR. NADOL: These are certainly bills that we've looked very seriously at, and these are certainly bills that the Mayor is well aware of. And in particular with regard to Bill No. 980303 and the proposed transfer tax rate reduction, this is a matter of grave concern for the Administration. I don't want to tie the Mayor's hands in terms of what he will do in the weeks ahead, but I can say that this is something we oppose in the strongest possible terms because of its fiscal impact.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any questions?

The Chair recognizes Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair. Good afternoon. Is that Mr. Nadol and Mr. Dubow --

MR. DUBOW: Yes.

COUNCILMAN NUTTER: -- is it? I'm sorry.

Let me just ask a couple preliminary questions. And, Madam Chair, there are numerous people here from the general public and the real-estate community who wish to testify as well. And I think Frank Piva (ph.) is back with us to talk about some of the loophole provisions that are covered in this particular bill just to put some examples on the record.

Let me first just kind of get my bearings with you guys. Mr. Nadol, your testimony, the cover of your testimony indicates that you are now the Director of Finance; is that correct?

MR. NADOL: That's correct.

COUNCILMAN NUTTER: Okay. Was that shortly after becoming Deputy Mayor for Finance?

MR. NADOL: That's correct. As many of the members of Council know, my predecessor as Director of Finance, Ben Hayllar, was serving simultaneously as Director of Finance and as the Interim Chief Executive for PGW.

COUNCILMAN NUTTER: Right.

MR. NADOL: And I asked to come over and support him as Deputy Mayor for Finance earlier this summer. And then upon Mr. Hayllar's full-time appointment at the Gas Works, I was appointed as Acting Director of Finance and then permanent, if you will, Director of Finance, following action by the Finance Nominating Panel.

COUNCILMAN NUTTER: Okay, so when did

that happen?

MR. NADOL: I assumed the office in an acting capacity on October 1st.

COUNCILMAN NUTTER: Since October 1st, you have been -- okay.

And, Mr. Dubow, you moved up after Dean Kaplan left; is that correct.

MR. DUBOW: Yes, that's correct.

COUNCILMAN NUTTER: So that's been since the summer?

MR. DUBOW: Yes.

COUNCILMAN NUTTER: Okay. Now, the FY '98 five-year plan, that was, I guess by way of the calendar, that was drafted in the winter of 1996; is that about right?

MR. DUBOW: Yes, that's correct.

COUNCILMAN NUTTER: Okay. And what was your job then?

MR. DUBOW: I was Deputy Budget Director then.

COUNCILMAN NUTTER: Deputy Budget Director, okay.

And Mr. Nadol?

MR. NADOL: At that time, I would have

been Deputy Water Commissioner.

COUNCILMAN NUTTER: Okay, all right. And you've both then been serving in those capacities until a couple months ago?

MR. DUBOW: Yes.

MR. NADOL: Yes. And as I believe the Councilman knows, I've been with Mayor Rendell since the first day of his administration.

COUNCILMAN NUTTER: Right, I know, I know.

MR. NADOL: Back in 1992 and have served in other capacities as well.

COUNCILMAN NUTTER: Right.

MR. NADOL: And for the period that you inquired about, I was the Deputy Water Commissioner.

COUNCILMAN NUTTER: All right. So it's only been since the summer that you've been in your respective positions to present.

MR. NADOL: That's correct. Summer-fall.

COUNCILMAN NUTTER: Summer-fall of '99, okay, all right.

Now, in your testimony, you say that

you assume -- I think it's on Page 9. These estimates assume a full year reduction in Fiscal Year 2000. Now, why do you make that assumption?

MR. NADOL: Mm-hmm. I think at the time the analysis was first put together, we were looking at it having an impact on that full fiscal year. I'm not. . .

COUNCILMAN NUTTER: Well, the bill was introduced 18 months ago.

MR. NADOL: Right.

COUNCILMAN NUTTER: And your testimony is as of today, and you never talked to me. So I didn't tell you that it was going to be a full-year reduction in FY 2000, and we're in FY 2000 right now, right?

MR. NADOL: Of course.

COUNCILMAN NUTTER: Okay. So how could we have a full year reduction if we're already in the fiscal year? We can't retroactively go back, can we?

MR. NADOL: The bill as drafted -- if I believe I have this correctly, it would have been effective for all transactions taking place on or after July 1, 1998.

10/28/99 WHOLE COMM. - 980303, 980927

COUNCILMAN NUTTER: Right.

MR. NADOL: Clearly depending on --

COUNCILMAN NUTTER: That's because it was a 1998 bill and it was anticipated that if you introduced something in April, it might be ready to go July 1, 1998.

MR. NADOL: Right. If the effective date were to be in the middle of the fiscal year, then the revenue impact would be in the middle of the fiscal year.

COUNCILMAN NUTTER: Right. Well, we wouldn't be able to --

MR. NADOL: I think the data that we presented gives Council a good feeling of what a full fiscal year impact would be, and given that this would presumably be an annual recurring impact, this gives you a good sense of the total impact across a typical five-year plan period.

In terms of this specific FY 2000, if the bill were not to be effective until midway through this fiscal year, say, for the sake the discussion, January 1st, then you could adjust this number accordingly.

COUNCILMAN NUTTER: Right. Well, one,

we wouldn't be irresponsible and try to adjust the tax rate in the middle of the fiscal year. But secondly, if we had talked about this, you would know that we had planned to do this for the start of the next fiscal year, so it would be July 1, 2000, but we never had that conversation.

So there have been no communications and, therefore, the Administration has no idea what the intentions are, and that's why you have a sentence in your testimony that says that you assume that something's going to happen, because there was no discussion about this, right?

MR. NADOL: Not in the, as you pointed out, relatively brief period that I've been in this position.

COUNCILMAN NUTTER: All right, okay.

Now, let me ask you some questions about previous five-year plans and some of the estimates. In the FY99-FY03 five-year plan, the Administration estimated that in 1998, real-estate transfer tax would generate $62 million. IN the following year's fiscal plan, it apparently comes to light that there was a 51 percent increase FROM FY '97 to FY '98, resulting in an $82 million transfer tax collection for FY '98.

Now, I mean, did the Administration purposely underestimate what the real-estate transfer revenues were going to be, or did you just make a mistake?

MR. NADOL: Neither. Or at least --

COUNCILMAN NUTTER: Or you could say "neither" (pronounced "nigh-ther").

MR. NADOL: Well, shall we call the whole thing off?

(Laughter.)

COUNCILMAN NUTTER: I doubt it, nice try.

MR. NADOL: There were a number -- and as I said at the outset of our testimony, there are a number of factors which determine what annual transfer tax collections will be, and some of those are hard to predict. This is a tax that experiences more variation as a result of changes in the overall economy, as a result of changes in interest rates, as a function of one, two, some small subset of large office building transfers, large commercial transactions that may in and of themselves generate significant revenues.

And in this particular time period that you're asking about, the City Records Department was able to clear out a significant backlog of pending documents that also help to create a one-time boost in our revenues in that year.

COUNCILMAN NUTTER: Or maybe even the closing of a loophole, as indicated by Bill 960397; is that possible? The five-year plan indicates that you received a lot of income as a result of some transactions that came as a result of Council's action on closing the loophole; is that correct?

MR. DUBOW: Yes.

COUNCILMAN NUTTER: Okay. So, I mean, Mr. Nadol, is it your testimony that based on your experience in this regard, or at least in the timeframe that you've been the Finance Director, that you have determined that the rate of the real-estate transfer tax has no impact whatsoever on what goes on in the real-estate market; is that your testimony?

MR. NADOL: No, I don't believe that's what I said. I think what I've said is that we've looked at the data to try to determine how great an impact the rate changes in the transfer tax would have.

COUNCILMAN NUTTER: Right. And what data was that?

MR. NADOL: Basically what we've looked at is historical changes in the tax rate. This is a tax, as you know, that has not been as consistent over the years as some of our other taxes. And we've looked at the actual revenues generated by the tax adjusted for the rate changes.

COUNCILMAN NUTTER: Mm-hmm, right.

MR. NADOL: And kind of for each percent of transfer tax, how much are we collecting. And what we've seen is that it's hard to see anything in terms of a correlation between rate changes and activity. You might hypothesize that raising the rate would discourage transactions and that lowering the rate would encourage them, but if you look at the data, that kind of relationship just isn't there.

During most of the 1990s, the transfer tax rate was steadily coming down. And yet, the per-percent collections were strongest in the early '90s during the years when we had the highest transfer tax rate. And what that indicates to us is not that it has --

COUNCILMAN NUTTER: Well, isn't that a function of the number of transactions times the rate, and the rate is high, and so then you have high collections?

MR. NADOL: No, no, adjusted for the rate. If you take kind of for each percent of transfer tax rate how much is being collected and adjust for the rate increases itself, you just don't see what you might have predicted in terms of economic stimulus effects or economic, you know, chilling effect as a result of either lowering or raising this tax rate.

COUNCILMAN NUTTER: Well, I mean, let me ask this question. I mean, know you've had a number of positions either in the Administration or in your prior career. Do you have a real-estate license?

MR. NADOL: No, I don't.

COUNCILMAN NUTTER: Have you ever sold a piece of real estate?

MR. NADOL: No, I have not.

COUNCILMAN NUTTER: Okay. Now, I mean, based on all your analyses and the determinations that you've made, what's your view of Council's role and right in the area of tax-rate levels and ha they should be and how we actually do our jobs as it relates to tax rate issues? Is it your view that it's just within the purview of the Administration to make those determinations and have final judgment on that, or does Council have a role in this process?

MR. NADOL: Of course, Council has a very important role in this process. I think one of the things this administration is very proud of is the partnership that we've forged with City Council to make changes and improvements and reductions in some of the critical tax policies and tax rates that the City lives under. We've partnered together for five consecutive rounds of wage and business privilege tax reduction. We've worked together on some of the creative abatement programs for conversion of vacant ant underused properties. We've dealt with difficult issues and complex issues in the reapportionment of the BPT that have helped to level the playing field for

Philadelphia-based businesses.

And I think we view all of that as ideally a collaborative process. Some of the changes in the tax programs, you know, have been sponsored by Councilmembers, some of them have been sponsored or initially promoted by the Administration, some of them have been initially promoted by outside civic groups, helping to bring us good ideas. So it's a collaborative process.

COUNCILMAN NUTTER: So in that regard, I mean, we could, as reasonable people, just have a difference of opinion about this particular matter. And based on your glowing review of what we've done over the years, it doesn't necessarily mean that our view is wrong or that your view is always right; we just have a difference of opinion. And that under those circumstances, it's possible that you could be wrong and we could be right; is that possible?

MR. NADOL: It's certainly possible that we could be wrong, and it's quite probable that you will be right on many, many issues. On this particular issue, I think the critical factor for us is what will the impact be on the City budget, and what is the most probable. Most likely effect of cutting the realty transfer tax rate --

COUNCILMAN NUTTER: That's not my proposal.

MR. NADOL: -- in half. And any way we look at it, and when I say "we," I just don't just mean me in my relatively short time in this position; I mean the Administration as a whole. And we've taken this proposal seriously and we've talked about it with veteran members of the Administration with lots of experience and lots of licenses and lots of time-tested background with these issues. And every way we look at it, this is a $30-million-plus hole every year in the City's budget.

COUNCILMAN NUTTER: Last question in this particular. What do you think is the impact on the real-estate market in general where you have the City and County of Philadelphia having a 3 percent rate and the four counties around us having a 1 percent rate? Do you think that has any impact on the real-estate market in Southeastern Pennsylvania, that disparity?

MR. NADOL: It certainly -- I can't -- I can't say it has no impact. I mean, if we were starting from scratch, if we were a brand-new community in a strong growth mode with healthy revenues, would we like to have transfer-tax rates structure that is in line with other communities? I mean, I think of course we would.

The problem we face today is, that's not where we are. We're facing this question in the context of also being a municipality with very high noncompetitive wage-tax rates relative to where we'd like to be and higher business taxes than other communities and relative to where we'd like to be. And in terms of prioritizing, where do we get the biggest return on our tax-cutting efforts? Our judgment is that we are getting a bigger bang through what we've been successfully doing in partnership with City Council on the wage tax and the BPT.

COUNCILMAN NUTTER: Okay, thank you. No more questions.

I would like to get Mr. Piva up at some point.

COUNCIL PRESIDENT VERNA: Are there any

other questions of Mr. Nadol?

(No further questions.)

COUNCIL PRESIDENT VERNA: Gentlemen, I would ask that you remain for the remainder of the hearing, please.

COUNCIL PRESIDENT VERNA: Good afternoon. Please identify yourself for the record.

MR. PIVA: Frank Piva, Jr., Divisional Deputy City Solicitor, Law Department, Major Tax Enforcement.

COUNCIL PRESIDENT VERNA: Thank you.

COUNCILMAN NUTTER: Good afternoon, Mr. Piva.

COUNCILMAN NUTTER: Good afternoon, Councilman Nutter.

COUNCIL PRESIDENT VERNA: Councilman?

COUNCILMAN NUTTER: Thank you.

Good afternoon, Mr. Piva. Mr. Piva, can you briefly give us some examples as best you can just so we have a record on those particular issues related to the loopholes that are a part of -- or the closing of certain loopholes that are a part of Bill 980303?

10/28/99 WHOLE COMM. - 980303, 980927

MR. PIVA: Yes. This bill contains four of what can be viewed as loophole-closing mechanisms. But before I speak about each of the different loophole closings, I think it's important to just reflect on how folks become subject to the reality transfer tax.

COUNCILMAN NUTTER: Okay.

MR. PIVA: I mean, obviously, we're all familiar when we own a property in own name and sell it to someone, that that transaction is subject to realty transfer tax.

But there is another way that transactions can be subject to realty transfer tax, and that is when the owner of the property doesn't actually change, but who owns the owner, the stock in a corporation that owns a piece of property, that changes. And when that change occurs, if it's more than a 90 percent transfer of ownership of stock of a company that 90 percent of its assets is real estate, we treat that as well as a transaction that is subject to tax.

And there's some parameters there. The first parameter is that it's a real-estate company. And we define "real-estate company" as

10/28/99 WHOLE COMM. - 980303, 980927

company where 90 percent of its assets are in real estate. We also say that in order for the transfer to be subject to tax, there has to be a transfer of an interest of 90 percent or more within a 3-year period. And if that occurs, if a real-estate company transfers 90 percent or more interest within 3 years, it's subject to realty transfer tax.

The first loophole closing addresses what has -- at least the tax professionals have been using a mechanism that's referred to as "the 89-11." And it's advocated -- I've been to at least two seminars where tax professionals who are advising other practitioners on city taxes have suggested the use of this 89-11 mechanism.

And what that does is, the person who owns the interest in the real-estate company decides to sell 89 percent of that company today and agrees to sell the remaining 11 percent of that company in 3 years and 1 day from today. Effectively by entering into that arrangement, the seller and the buyer avoid the realty transfer tax because on the (unintelligible) tax, you have to sell a 90 percent interest within 3 years. Here they haven't sold 90 percent interest within 3 years; they actually have sold it within 3 years and a day. And so one of the mechanisms that we have here is to close that loophole.

The other three are more minor, but the next one also goes to the definition of what a real-estate company is. As I've said, it's a company where 90 percent of its assets are real estate. Well, in Pittsburgh, they define a real-estate company for transfer-tax purposes as not 90 percent in real estate, but 50 percent. And, in fact, the Commonwealth courts have said that that is a fine definition of 50 percent. So another mechanism that's here is to reduce the percentage of the definition of what a real-estate company is from 90 percent of its assets being real estate to 50 percent.

The third loophole closing also involves the definition of a real-estate company, and that is what constitutes real estate. As we've it, real estate is only real estate that's in Philadelphia. So you can have a company that has a number of properties of real estate and, for all practical purposes, all its assets are real estate. But if it doesn't have 90 percent of all those real-estate properties in Philadelphia, it's not going to be considered a real-estate company, when, in fact, all its assets are real estate. So we would make clear that the definition of a real-estate company and of the term "real estate" include not only Philadelphia real estate, but all real estate, whether it's in Philadelphia or outside.

And the final loophole mechanism that would be closed is a situation that occurs and, from what I understand -- I wasn't here at the time, but that initially Council created an exclusion for when someone has a piece of property and when they sell it, there's no lender, no bank involved, and they actually take back a note from the purchaser for part of the payment. So instead of getting paid 100 percent at the closing, they really get some money and a piece of paper saying, you know, I owe you X-amount and I'm going to pay you over time.

Well, what happens often or sometimes is that folks default, and they're not able to make those payments, and the original owner seeks to get possession of the property again and foreclose. And so we created, many years ago, an exemption so that that person would not be subject to the tax a second time -- first when he sold it and received the note, and second, when he has to foreclose and receive the property back because the person who received the note defaulted.

It's my understanding that when this was originally enacted, the intent was that this was more in the unsophisticated noncommercial contacts that this exemption would apply. What has happened is, this exemption has been used from time to time by financial institutions. And this fourth loophole would close that and would just limit it to transactions between natural persons in order to qualify for this fourth exemption.

So that's a rundown of the four loophole closings that are referred to in this bill.

COUNCIL PRESIDENT VERNA: Councilman Nutter?

COUNCILMAN NUTTER: Mr. Piva, do you believe that -- let me ask you one technical question. After you've laid out these various examples, do you feel confident that with the closing of these loopholes, there would be some additional tax revenue collection as a result of the closing of any of these loopholes similar to the previous one that I mentioned, I believe, from 1996?

MR. PIVA: Um. . .

COUNCILMAN NUTTER: Is it possible to get additional tax revenue collection as a result of the closure of various loopholes that it is generally believed people utilize to avoid paying transfer tax?

MR. PIVA: One would think that there would be some revenue, but it's hard to tell because we have a very sophisticate tax bar in Philadelphia, and when folks are focused to try to avoid a tax, if you close one loophole or another loophole, creativity exists, and someone will try to come up with another mechanism.

Do I know of another mechanism today? No, I do not, but I have a lot of confidence in my colleagues outside, that if there is enough money to be saved, that folks will have looked for another mechanism. At this point, we would hope that we would be closing all the perceived loopholes, but we have no way of knowing whether there is something else out there that somebody will be using.

COUNCILMAN NUTTER: I understand.

MR. NADOL: If I might add to that.

COUNCILMAN NUTTER: Let me finish. Or in the alternative, you could do nothing and just allow people to continue doing whatever it is that they're doing.

MR. PIVA: That's true.

MR. NADOL: If I might add to that, we have talked with a number of the auditors in the City Revenue Department and in an informal way bounced these ideas off of some of Mr. Piva's colleagues in the Law Department involved in tax enforcement.

And the sense of these loophole closers is that they're positive, that there's likely to be some merit there, but we have not at all been able to quantify that it's not a situation where there are scores and scores of examples of companies that are known to us that are just on the other side of paying the tax and that we would easily capture as a result of these modifications to the language.

COUNCILMAN NUTTER: Do you recall what the analysis was that led to the introduction and the subsequent passage of 960397?

MR. NADOL: I'm not personally familiar with the details of that particular initiative. I can say that with regard to those that are proposed in this bill, we've tried to assess how big a bang we would expect, and we have not been able to come up with any hard and reliable data. The best we can do is anecdotal in nature and impressionistic in nature, and those anecdotal impressions are that, at least for a while, we might capture a few more taxpayers.

The likely revenue from that is hard to predict because it would likely be large commercial transactions that are sort of episodic, and some are big and some are less big. Under no scenario can we imagine that the revenues that might be generated from these efforts to close loopholes, under no scenario can we imagine it coming anywhere close to the $30-million-plus that we would lose through the proposed rate reduction.

And there is also the longer-term risk that new loopholes will be dreamed up and opened up by what is a fairly sophisticated commercial real-estate community and tax bar.

COUNCILMAN NUTTER: Okay. Thank you, Madam Chair. I have no further questions for the gentlemen at the table.

COUNCIL PRESIDENT VERNA: Are there any other questions from members of the committee?

(No further questions.)

COUNCIL PRESIDENT VERNA: Thank you, sir.

MR. PIVA: Thank you.

COUNCIL PRESIDENT VERNA: Mr. Nadol, you're staying. You don't have to stay at the table but I would ask that you not leave the room.

MR. NADOL: Okay.

COUNCIL PRESIDENT VERNA: Our next witness is Joseph Vignola.

(Joseph Vignola comes forward.)

MR. VIGNOLA: Good afternoon.

COUNCIL PRESIDENT VERNA: Good afternoon.

10/28/99 WHOLE COMM. - 980303, 980927

MR. VIGNOLA: Good afternoon, Madam Chair. My name is Joseph Vignola. I am the Executive Director of the Pennsylvania Intergovernmental Cooperation Authority, known as PICA.

Madam Chair, I delivered to you this morning and to the Mayor and now to the rest of members of City Council a letter which I wrote in regard to Bill No. 980303. Not to repeat the letter, but to summarize is that. . .

The PICA staff has endorsed efforts by the City to cut taxes and has vigorously encouraged the City to take steps to reduce the cost of living and doing business in Philadelphia in general. And we have applauded the City's successful efforts to reduce both the wage tax and the business privilege tax. However, our endorsement of efforts to cut taxes has always carried a very important caveat: the City must be able to afford any tax cuts, either by replacing lost revenues, cutting expenditures, or some combination of such actions.

After reviewing the Finance Department's analysis of the cost of this project or this bill, especially in light of the fact that by the time the City passed its budget in its five-year plan earlier this calendar year, the Commonwealth of Pennsylvania removed the Pennsylvania utility real-estate tax (PURT) to the tune of some $60 million. We at PICA are concerned that the revenue shortfalls caused by enacting this proposal may reach a level whereby the PICA statutory intervention, i.e. declaring a variance from the revenues, could take place.

In light of the dialogue between the Finance Director and Councilman Nutter, I am not prepared to say that it will happen in this fiscal year. But because the PURT tax cuts are even greater next fiscal year than they are in the current fiscal year and given a full year cut of the real-estate transfer tax without a raise in revenues as a result of the cut, the City could be facing a substantial revenue shortfall. And when you combine that with other planned cuts that are supposed to take place in the five-year plan, which PICA has questioned in its report to the PICA Board and the PICA Board's adoption of the five-year plan, we're concerned that these cuts, while very laudatory, may run in opposition to the five-year plan that this Council adopted this spring and which the PICA Board approved and ongoing five-year plans that will come before this Council and my board.

So with that, I'd be glad to answer whatever questions you or any other member of Council may have in regard to this matter.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any questions of members of the committee of Mr. Vignola?

(No questions.)

COUNCIL PRESIDENT VERNA: Thank you so much for coming in.

MR. VIGNOLA: Thank you.

THE CLERK: Diana Lucidi?

(Diana Lucidi not present.)

THE CLERK: Lindsey Johnston?

(Lindsey Johnston comes forward.)

COUNCIL PRESIDENT VERNA: Thank you so much for your patience. I know you've been here since 10 o'clock this morning. Please identify yourself for the record and proceed with your testimony.

MR. JOHNSTON: I am Lindsey Johnston. I am the President of the Greater Philadelphia Association of Realtors.

I have a quick -- first of all, I would like to say that those people -- I will not read their names into the record, but we had a fairly strong turnout, a couple of dozen people here this morning, to support this position; unfortunately, they could not stay around because they had to close real-estate transactions and get those transfer taxes in.

So I would, though, like to read this statement: The Greater Philadelphia Association of Realtors has been an advocate for the reduction or repeal of the Philadelphia realty transfer tax. Currently at 3 percent, this transfer tax is one of the highest in the nation, serving as a significant deterrent to potential home buyers and commercial investors.

The overriding goal of reducing the real-estate transfer tax should be to place Philadelphia on a level playing field with the competing communities and to improve housing affordability. The reduced cost of purchasing property should stimulate investment in residential and commercial sectors and help Philadelphia shed its image as anti-business.

In 1998, Councilman Nutter introduced legislation which reduces Philadelphia's real-estate transfer tax to 1.5 percent. To pay for this reduction, certain tax benefits for commercial real-estate transactions are eliminated, notably the 89-11 exemption.

Well, I'm going to stop with my written testimony now and just make a couple of comments here. For instance, on this 89-11, as you know, the way real estate works is hypothecation or leverage. For $10,000, you can buy $100,000 worth of property. Well, if you're looking at something in Philadelphia -- and the idea with this is that you only have to come up then with 10 percent of the necessary money to do the deal. But if you put yourself in a situation where you've got 10 percent of your money and then another $1,000 in transfer tax, you come up with $11,000 to do the deal. If you're in the City of Philadelphia, you have to come up with $13,000 to do the deal. And when you're talking with a commercial investor who's not talking on a $100,000 property but on a $10 million property, to have to bring 13 million versus 10 million to the table, that deal will go someplace else.

And we are not just in competition with the surrounding communities; we are in competition with other cities. And I have a list of certain cities. For instance Atlanta, where the transfer tax is $1 per 1,000; Boston, where it's 2 percent per 1,000. In New York, Washington DC -- Philadelphia is way out of line with everywhere else.

And it does not do us well to say, We're used to it. Obviously we're not used to it. If we were used to it, we wouldn't have this drain of talent and people from the City.

We do agree that it is not maybe only the transfer tax. There are other issues. There is wage tax, there is the qualification of a good workforce, but transfer tax is one place we can start, and we need to start now.

COUNCIL PRESIDENT VERNA: Thank you very much.

Are there any questions from members of

the committee?

(No questions.)

COUNCIL PRESIDENT VERNA: Thank you again for your patience.

MR. JOHNSTON: Thank you.

THE CLERK: Charles Kahn?

(Charles Kahn not present.)

THE CLERK: Ashley Andrus?

(Ashley Andrus comes forward.)

MS. ANDRUS: Good afternoon, Madam President and members of Council. I think that my statement is being distributed so I'll just be brief.

Basically, I just want to echo the comments that Mr. Johnston made prior. And, actually, if anyone was here this morning, I don't think Councilman Kenney could have articulated the Chamber's position any better. It's just an issue of competitiveness, and I think that we in Philadelphia are in a daily struggle to remain competitive with our neighbors across suburban lines and our neighbors in this region of the country and really all over the country.

And as the Pew Charitable Trusts report

10/28/99 WHOLE COMM. - 980303, 980927

points out, the City faces grave in terms of its uncompetitive tax structure. And I think anything that this Council can do to make Philadelphia more competitive is not only a wonderful tool in the retention and attraction, but at this point in the City's economy, I think it's a grave necessity.

And as Mr. Johnston pointed out, the reality transfer tax in and of itself is not going to be the sole factor that makes someone remain in Philadelphia or that attracts someone from outside into the city. But I think when you look at the totality of the circumstances here, we need to really spread the incentives across.

And I applied this Council and this administration to the highest degree for the things you've done on the wage and business tax cuts. But I think that we need some relief spread to some different tax areas, and this is a fine place to start.

Thank you.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any questions from members of the committee?

(No questions.)

COUNCIL PRESIDENT VERNA: Thank you so much.

Do we have anyone else to testify on this bill?

(No response.)

COUNCIL PRESIDENT VERNA: Would Councilman DiCicco and Councilman Nutter please approach the table.

(Councilmembers DiCicco and Nutter confer with President Verna off the record.)

COUNCILMAN DICICCO: Mr. Johnston, are you going to be testifying on Bill No. 980927? I held back on the testimony, pending the dialogue on Bill No. 980303. This is the one where the responsibility would be --

MR. JOHNSTON: Yes, I can.

COUNCIL PRESIDENT VERNA: Do you want to approach the witness table, please.

(Lindsey Johnson returns to the witness table.)

COUNCILMAN DICICCO: Thank you, Madam President.

As you know, I introduced a bill that would shift the responsibility for the transfer tax to the seller, as currently in Philadelphia, the transfer tax is typically a 4 percent split -- 2 percent to the seller and 2 percent to the buyer.

The intent of this bill for me was to enable folks who are interested in buying a home to maybe be able to get to the settlement table a lot easier. In your testimony on Bill 303, you indicated that the transfer tax is a very high tax, and when someone wants to buy a home, I think you used the example of $10,000 becoming now $13,000 as a result of the transfer tax. But there are other items that are included in a closing statement -- Realtor fees, notary fees. If you do financing as well -- if you're financing a property for the purpose of purchasing, you also may add some points assessed to the mortgage.

Those costs are considerable for most folks, and I was wondering if you have any testimony or could you, through your experience in real estate, could you tell us if all of those costs cumulatively have any negative effect on the ability for people to be able to purchase a property.

'Cause what I was attempting to do with this bill was by shifting the responsibility to the seller, for those buyers who have a difficult time coming up with settlement costs, Realtor fees, notary fees, points as it relate to mortgages, it's just an extra burden on them to get to that settlement table. And I thought that by shifting the responsibility to the seller, even though the seller may have to incur the additional 2 percent, should the seller decide to increase the sale price by whatever that 2 percent is equivalent to, the buyer could then absorb that cost into a mortgage and spread it out over 15 to 30 years and it's relatively insignificant.

And if I can just give you an example. I'm a homeowner in the City of Philadelphia and I have a home selling for $50,000. For whatever reason -- my family has grown or I'm doing better financially and I want to stay in the City of Philadelphia and I want to buy up, and I assume most people buy up. I'm now going to purchase a $100,000 home. At the $50,000 sale price of which I am the seller, under the current formula, I would incur $2,000 as my share of the transfer tax, and the buyer would have -- I'm sorry, $1,000 to the seller and $1,000 to the buyer.

Under the formula that I am presenting in this bill, I, as the seller will have to incur the full $2,000 transfer tax at the $50,000 sale. When I become the buyer under the present formula at a $100,000 home, I will have incurred $2,000 for the transfer tax as the buyer, and the seller will have incurred $2,000 as the seller.

So cumulatively, as the buyer and seller, I will in effect have paid $3,000 for both transactions. So I'm actually paying a transfer tax both times for both transactions for the pleasure of living in the City of Philadelphia.

Under my formula, as the buyer of the $100,000 house, I don't have to pay a transfer tax, so I will in effect have saved $1,000 on both transactions. I was the seller at 50, it cost me 2,000; I'm the buyer at 100, and it doesn't caught me anything. So I will have saved $1,000 on the transfer tax for both transactions.

The Realtor who is handling the transaction, or the seller of the $50,000 property, if they don't want to absorb the extra

$1,000 -- and these are simple numbers that I'm using -- it could inflate the sale price by 1,000 or $2,000 to make up the difference. The salesperson, who obviously will benefit by it 'cause now the sale is not 50,000, it's 52,000, the City will still get the transfer tax based on the $52,000 of the price of the home for sale.

Now, I'm trying to be as simple as I can so what I'm telling you is that my intention was to get especially low-moderate and middle-income families who struggle sometimes to be able to come up with enough money to be able to purchase a home, to reduce some of that burden as best as possible without really affecting the sale price of the home that will affect their mortgage going forward to any extent that would really jeopardize their monthly payments so they couldn't afford it.

MR. JOHNSTON: Councilperson, I understand your concept here, and there is a devil's advocate's argument that supports those contentions. And we applaud any legislation that brings the issue of high transfer taxes and how to reduce them, we applaud in the efforts.

I, however, feel that there are other scenarios where it might not be beneficial to the seller. Let's say that our seller is not a move-up seller but is selling because they're an empty-nester and so they are now selling their $100,000 five-bedroom home and moving into a $75,000 condo. Well, now they're getting hurt on both ends and they're not helped on both ends.

Here's one of the things about Philadelphia that is unique for an East Coast city. Housing is affordable in Philadelphia. So when we look at the three factors necessary for home ownership, it's credit, it's income, and it's cash to close. Of those three factors, cash to close is often the biggest obstacle. And so, yes, your bill does address helping the seller on that -- helping the buyer on that cash to close factor.

However, there is also the other end of the transaction where you've got a seller, and as I just said, if cash to close is a huge impediment, then let's say we've got a conventional or an FHA mortgage deal, if it's already got a 6 percent maximum seller assist on it. So using your same numbers, I've got a $50,000 house and I've got it under agreement. It's an FHA deal, because that's the only deal that the buyer qualifies under. That seller is now paying 6 percent, or $3,000, towards the buyer's closing costs. They're paying a commission -- bless them -- and they're also hit with a transfer tax. By the time you add that up, they're looking at maybe a 15 percent cost of sale.

And so what it all comes down to is that regardless of which side of the equation the transfer tax is on, it is prohibitively high. Therefore, with all due respect, I believe that Councilperson Nutter's bill, which is calling for a reduction in the transfer tax, is a more long-term and permanent solution to the issue.

COUNCILMAN DICICCO: It's more equitable, I guess. Okay.

MR. JOHNSTON: Yes.

COUNCILMAN DICICCO: And again, originally when I was thinking of this type of legislation, I don't know if I prepared another piece or not, but I was looking to find a way in which people who remain in the city but move from one property to another do not have to go through the expense of paying a transfer tax on both transactions. And I was told that we have to do it, you can't just charge them on one transaction because under the Uniformity Act, it's illegal.

So I just looking for an alternative to that, again, to make it more affordable for folks to either get to the table and/or continue to stay in the city without having to pay that transfer tax twice.

MR. JOHNSTON: I do believe there's merit to that idea. I think it's a very original idea. I believe that even, again, Councilperson Nutter's initial bill offered not quite the same but a similar incentive for those people that would stay in the City of Philadelphia, and I think that it was the same reason, if I'm correct that, yes, that you would have to -- any other thing would be an unequal taxation or whatever and unacceptable under City Charter.

But, again, when you take a look at solutions to this problem -- and it's not like Philadelphia -- and I'm going to go back to the commercial real estate to illustrate this. They don't know about an 89-11 in Montgomery County, they don't know about an 89-11 in Bucks County. It doesn't matter because it's only a 1 percent transfer tax they're talking about. There is certain exposure and there are sizeable legal fees to structure such a deal. So because there's only 1 percent transfer tax, they don't bother. They say they accept it as a part of life.

But in Philadelphia, where they talk about that 3 percent -- and it rankles the buyer and the seller -- then everybody gets creative in similar ways to what you have done. And ultimately, the answer is to reduce the transfer tax.

COUNCILMAN DICICCO: Okay, thank you.

COUNCIL PRESIDENT VERNA: Well, we just made a big decision. The Committee of the Whole will stand in recess until Wednesday, November the 10th, at 11 a.m..

The Chair recognizes Councilman Nutter.

COUNCILMAN NUTTER: Madam President, can you announce that there was a Commerce and Economic Development Committee meeting which was supposed to start at 2 o'clock. If members could stay to give us a quorum so we can take care of that business. It's a mere putting-forward of some amendments; there's no disagreement on the measure in front of us.

COUNCIL PRESIDENT VERNA: Fine. I think you just made that announcement.

So thank you all again for your patience today.

(Adjourned at 4:00 p.m.)

- - -

C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing proceedings of the Council of the City of Philadelphia of Wednesday, October 27, 1999, were reported fully and accurately by me, and that this is a correct transcript of same.

RE: COUNCIL COMMITTEE OF THE WHOLE
BILL NO.'S 970214, 970652, 980303, 980927

______________________________,

JOSEPHINE CARDILLO,
Registered Professional Reporter