COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON FINANCE

- - -

Room 696, City Hall
Philadelphia, Pennsylvania
September 18, 2002
2:10 p.m.

- - -

BILL 020438 - An ordinance enacting a new Chapter 19-3400 of The Philadelphia Code authorizing the Board of Revision of Taxes to grant tax deferrals to longtime owner-occupants of certain properties in the City of Philadelphia.

- - -

PRESENT:

COUNCILWOMAN JANNIE BLACKWELL, Chair
COUNCILWOMAN MARIAN TASCO, Vice Chair
COUNCILMAN DARRELL CLARKE
COUNCILMAN JAMES KENNEY
COUNCILMAN MICHAEL NUTTER
COUNCILMAN ANGEL ORTIZ
COUNCILMAN FRANK RIZZO

- - -

VINCENT VARALLO ASSOCIATES, INC.
Registered Professional Reporters
Eleven Penn Center
1835 Market Street, Suite 600
Philadelphia, Pennsylvania 19103
(215) 561-2220

I N D E X

COUNCILWOMAN BLACKWELL: We would now like to begin our hearing so we don't hold folks up a longtime. We will ask other members who are in the room, if they would, for the purposes of a quorum, join our hearing so that we might have a quorum.

The Finance Committee regarding Bill No. 020438 is called to order. We have a quorum to my right, Councilman James Kenney. Also for the purposes of this meeting, Councilman Darrell Clarke and Councilman Frank Rizzo. We thank you for joining this committee.

The Clerk will please read the title of the bill.

THE CLERK: Bill No. 020438, an ordinance enacting the new Chapter 19-3400 of the Philadelphia Code authorizing the Board of Revision of Taxes to grant tax deferrals to longtime owner-occupants of certain properties in the City of Philadelphia.

COUNCILWOMAN BLACKWELL: Thank you very much. We will now hear a statement from Councilman Darrell Clarke. He is the author of said bill.

COUNCILMAN CLARKE: Thank you, Madam

Chair.

Madam Chair, I would just like to make a brief statement with respect to this particular bill. As you know, as indicated on the bill, this bill was introduced in June prior to the recent phenomenon associated with the current controversy associated with the real estate assessments and increases in market value. So this is not a bill to address that particular concern. This is a bill that we drafted in the midst of concerns raised by some of the residents in some of our local communities with respects to potential development as a result of various NTI and other types of large-scale development initiatives, longtime residents who don't fall within existing senior citizen category, but to some degree, are equally burdened as it relates to their ability to pay additional taxes based on government-sponsered and other types of development in the areas that were at one time some of the most blighted conditions in the City of Philadelphia.

So in my discussions with one of my good friends, State Senator Shirley Kitchen, we had decided to do some legislation on a local level.

Senator Kitchen has indicated that she will take the lead on the state level to provide the enabling legislation and amendments to the state statute that will allow us to implement this locally. So I just wanted to clear that up, that this is not related to the current tax issue as it relates to the increasing assessments. And we will have enough discussion on that. Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you very much. To my right is also Councilman Frank DiCicco. We have three witnesses at the table; Steve Masters, City Council Technical Staff; David Glancey, head of the Board of Revision of Taxes; and Nancy Kammerdeiner, our Revenue Commissioner. So certainly feel free to begin as you so choose.

MR. GLANCEY: If I could just before -- I think Ms. Kammerdeiner will probably be delivering the testimony of the Administration. I simply wanted to go on record that my testimony will not be the testimony of the Administration. The Administration has their own testimony. I am here to speak about some of the provisions of the bill that I've already had discussions with Councilman Clarke about. And if the bill becomes law, it becomes law. I just think that what I'm going to testify to will assist that to be a better law, should it become law. Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Mr. Masters?

MR. MASTERS: Thank you, Councilwoman. My name is Steven Masters. I'm the Staff Attorney with City Council of Philadelphia, Technical Services Unit. I'm here today to testify concerning the technical aspects of Bill No. 020438.

As the drafter of the legislation that was asked to testify, this legislation implements a Constitutional amendment and a subsequent state statute that provides for tax relief for longtime owner-occupants residing in neighborhoods which are undergoing the changes which we commonly refer to as gentrification.

It began -- the source of this legislation began when the Constitution was amended in Article 8, Section 2 to provide for the authority for local taxing authorities to create special tax provisions to allow this type of relief. Senator Fumo then authored legislation at the state level called the First and Second County Property Tax Relief Act, which authorizes Philadelphia, as a county of the first class, to enact an ordinance to provide this type of relief. That legislation was passed on the state level back in 1989, I believe. It's not a recent law, but we are now, it looks like, poised to do something to implement it here.

The legislation begins with a declaration of policy, and that's because it's important for us to set out why it is that we are providing relief to the residents in the areas that we've designated, which is in this legislation the entire City of Philadelphia. Under some court cases that came out of Allegheny County, the decisions held that without a clear articulation as to the legislative findings and factual basis for the relief, giving relief to the entire metropolitan area may be seen as too broad. So in this declaration of findings we are setting out the actual factual basis as to why we're doing it on a total municipal basis.

Virtually all of the provisions in our legislation are taken verbatim from the state law that I referred to earlier, The First and Second Class County Property Tax Relief Act. The differences are that under the state law, counties in the first class, which is the City of Philadelphia, are not allowed to take financial need or the age of a longtime resident into account in determining whether they should be provided with this special program. On the other hand, counties of the second class, meaning Allegheny and Pittsburgh, are allowed to do that. So Pittsburgh some time ago did enact an ordinance that provides this type of relief and does contain financial criteria. Under the state law, Philadelphia does not have that power right now, which is why in Section 2 of the legislation we provide for implementation only after a new state law has been passed or the current state law has been amended.

The definition of longtime owner-occupant is as stated in the state statute. We've created a new category called low-income, longtime owner-occupant, which is a subset of the longtime owner-occupants, that have a median income of 50 percent or below of all the family incomes in Philadelphia. The definition of principle residents is the same as under state law. In terms of the eligibility for the deferral of the real property taxes where we've changed it in our ordinance, is that we are granting eligibility only to low-income, longtime owner-occupiers as opposed to all longtime owner-occupiers. For the eligible area, we define the eligible area as any established residential area or area of deteriorated, vacant or abandoned homes and properties within the City of Philadelphia. Those are the two major areas that are set forth in the state statute as permissible to provide the relief.

The administrative implementation aspects of the legislation, we drew upon our senior citizen low-income special tax provision program that's been in the code for a number of years. So we created a very similar type of administrative structure where in this case the Board of Revision of Taxes would promulgate rules and regulations. They would administer it. They have the expertise in this case to determine whether the increase in the assessed value of the property is due to a gentrification factor or whether it's due to the fact that a homeowner has actually improved on the property, which is why it's more valuable. Or whether there was an undervaluation, which all of us are familiar with lately in terms of the phenomena happening now.

This legislation is not geared towards giving people relief for undervaluations or when they, on their own accord, make there property more valuable. It is only designed to give relief to longtime homeowners who, through no fault of their own, you could say, are living in a neighborhood that's getting better and their property is getting better and they're finding it more and more difficult to stay in their house simply because their property has gotten more valuable from under them.

That's the basic rundown of the provisions. I'm happy to answer technical questions that you would have.

COUNCILMAN KENNEY: Madam Chair, before Ms. Kammerdeiner, I just have a few technical questions.

COUNCILWOMAN BLACKWELL: Yes. Let me just recognize others who have come in and we'll certainly be happy to recognize you. To my left, Councilwoman Tasco, Vice Chair of the Committee, is here and certainly our Councilman, Michael Nutter.

Councilman Kenney?

COUNCILMAN KENNEY: Thank you, Madam Chair.

Sir, I was intimately involved with the writing of this Constitutional change as a Chief of Staff for Senator Fumo back in the '80s. And one of the things we wanted to address -- there was about seven neighborhoods in the City at the time, if I recall, that were going through this gentrification process. Some of those neighborhoods -- and sometimes I hate to bring up specific neighborhoods because I seem to have gotten in trouble recently for bringing up neighborhoods, but I'll do it anyway. Queen Village, which was when my wife grew up there, was 2nd and South but it became Queen Village because it was becoming a pretty chic and interesting place to live. Northern Liberties, Powelton, Fairmount, and neighborhoods like that that were generally longtime owner occupied. Generally blue collar. I think Manayunk was just beginning to start. They were longtime, generally blue -- and just to generalize -- generally blue-collar working people who lived in those neighborhoods generations. And because of location or various housing factors, quality of housing, architecture, became an interesting place for younger -- for want of better term -- yuppies, which I don't really like the term but it's a good way -- it's an understandable way to describe the influx of people coming into the community fixing up and renovating, creating loft apartments and other types of things which created an increased -- overall increased value for the properties in the neighborhood.

But if you had a fourth-generation senior citizen or working family raising kids, living there because their great-grandparent bought the house, you know, at the turn of the century for $3,000, the house all of a sudden was worth 80, 90, $100,000 or more and they didn't want to move, but they couldn't afford the taxes. And the fact that they were being pushed out because of the tax rates was actually changing the flavor of the neighborhood, which made it so attractive to be renovated in the first place. So that mix of blue-color, ethnic, urban people with the young professionals coming in from outside was what really made Queen Village and other neighborhoods like that the exciting, vibrant place to live.

Sad to say, by the time we'd gotten through the two sessions of the legislature in an effort to do the Constitutional amendment and because the plan was actually never implemented in the Philadelphia because of other political considerations, I think at the time when the discussion was first raised about starting to implement this long-term property tax relief for gentrified neighborhoods, many Councilpeople, and understandably so, wanted all their neighborhoods in their district in the plan, which really all of them weren't gentrified. You may have had some areas in Northeast Philadelphia or South Philadelphia that weren't going through gentrification, but were just simply experiencing a rise in real estate assessments because of the rise in value by natural course.

Sad to say, by the time we're getting around to doing some of this now, many of those neighborhoods were gentrified and the older residents were pushed out. There were many African-American residents in Society Hill; Russian, Polish and other ethnic groups of Queen Village that were basically pushed out of those neighborhoods as a result of the increased property values and increased taxes.

Many of the neighborhoods that we started to deal with from the beginning of the legislative effort in the '80s are now fully gentrified. And the question that I have is -- I've always believed that part of this whole process that we went through in the state was to define gentrification. Is there a definition of gentrification in this legislation? And since this was an effort to stave off or to defend long-term residents against gentrification, if we do it citywide, is that what we're really doing and is that within the spirit and letter of the Constitutional change? I know that was a long question, but --

MR. MASTERS: Sure. In terms of the definition of gentrification, the way that the state statute defines it, it says -- and it's under our section 19-3430, subsection D -- that we define the same way that the state does. That the market value of the real property, the increase that we're looking at, has to be in whole or in part a consequence of the refurbishing or renovating of other residences or the construction of new residences surrounding the property, so --

COUNCILMAN KENNEY: It's been a long time since I read it, but I do remember specific percentages being in the state legislation. For some reason, 30 or 50 percent increases over a period of three to five years, something like that I remember.

MR. MASTERS: It's possible, but not in the version that was passed. In the version that we've inherited today there isn't any quantification like that. Where we do have a percentage is that we inserted a presumption in the legislation in the Philadelphia bill, which is that if someone's property taxes -- if the market value of the real estate exceeds 5 percent from the previously established market value and it's not attributable to a physical improvement of the subject property, then there's a presumption that that property has been -- the property value has risen due to gentrification. It's not an established fact. The BRT can then look at it and decide, no, really the reason that this property value has gone up is because it was undervalued before and it's not due to a rise in value in the whole neighborhood.

The issue of defining gentrification -- which I'm sure is studied in depth in doing this amendment. It's a very complicated -- and it's probably better that we don't define in too great a term because it could look different in different areas. I think the purpose for doing this citywide is that we're now engaging in a very wide range in project of neighborhood transformation in which a lot of neighborhoods in the City -- which we don't always know exactly where it's going to happen. We don't know the whole parameters of the program are going to be affected. So the intent of the sponsor in making it citywide is so that it can encompass all areas of the City that are undergoing neighborhood transformation in which gentrification may occur, as opposed to defining it in some way that would probably not make sense in some future time when another neighborhood is affected.

In terms of the senior citizens, there is an existing ordinance in the City and a state statute and the Constitutional amendment that provides for tax relief for senior citizens who are low income. And we do grant that here in the City.

And there's actually legislation that was recently introduced that would expand the eligibility for senior citizens for slightly higher low-income amount. So this legislation is geared for people who are not eligible for that. That's a straight exemption of the property tax. And this is going to be a deferral. This is not going to be -- the City will not lose this money in the long-term. They will not be able to get the money in the short-term, however.

COUNCILMAN KENNEY: Well, two questions as a result of that. Because one of the policy discussions we had during the course of the Constitutional change was that not only senior citizens who are -- have been in their homes for a long time and are beleaguered by the tax structure and don't want to move, they don't care whether their house was worth $5,000 or the house is worth $500,000, they wanted to end their lives there and weren't going anywhere. And, again, we're being pressured by the increased values and the subsequent increased taxes.

But also one of the groups of people that we talked about in the gentrification

Constitutional amendment originally were working families who were raising three, four, five kids, who were paying for high school and college tuitions, who were perhaps living in a house they have grown up in themselves; and because they were not seniors, because they did not meet certain income eligibility may have been, you know, driving a truck making $50,000 a year, he or she couldn't afford the taxes either as a result of the gentrification.

So what we were concerned about was we didn't want to lose what made the neighborhood attractive in the first place, and that was a great diverse mix of people, age, ethnicity, and race. And we found during the course of our discussions that -- and the reason why we didn't put -- I don't believe there were age -- there were senior citizen requirements in the original Constitutional change -- was that we wanted to help those working families making 40, 50, $60,000 a year from staying in their multi-generational family home, too. And doesn't this have the same impact or a similar impact on those working families as it does on a fixed income senior? Theoretically, you could have a senior citizen who has done well in their investments and in their, you know, pensions and other things that is doing better than the family of five making $50,000. I mean, I'm not saying that's the case all the time, but I can point to instances and go to information that I know people for sure who are in that circumstance in the neighborhoods we talked about.

MR. MASTERS: That is a policy question. That's not a technical question. Just to defer on that. The sponsor of the legislation had certain policy objectives in mind in drafting it this way to target the relief to those who are the most needy income-wise in the society. You're articulating a different policy, which is something that I can't comment on as a technical side.

COUNCILMAN KENNEY: I'll give you a good example. As Center City expands its boundaries and neighborhoods like Bella Vista and Italian Market become -- and if you go north into Northern Liberties and Spring Garden -- become more attractive, it actually expands the traditional boundaries of Center City. So that, for example, if you're living -- if Queen Village is now gentrified and fully high-end apartments, high-end properties and you move to the next neighborhood down, which is Pennsport, they're getting to become impacted by the expansion of the Center City and the attractiveness of living there.

In Pennsport, for example, there are working families and senior citizens who may at some point in time experience the effects of this gentrification, but would not be eligible for this particular deferral; is that -- this is a senior citizen program only?

MR. MASTERS: No, this is the not for senior citizens. This is not age based at all. We have the senior citizen program --

COUNCILMAN KENNEY: So it's income based?

MR. MASTERS: This is income based.

COUNCILMAN KENNEY: Okay. Fine. All right. And I'm always confused as to 50 -- I wish they would just give us a number. 50 percent of the median income for the SMSA -- if they would just say, Look, if you make more than 50 or you make more than 40, whatever it is. What's that number?

MR. MASTERS: The number changes every

year. This categorization is what we use for our CDBG money from the federal government, so --

COUNCILMAN KENNEY: I don't understand it there.

MR. MASTERS: So this is what's considered low income under CDBG criteria. There's very low, low, and moderate. We're not including moderate in this definition.

COUNCILMAN KENNEY: What is the number today, if this bill were law?

MR. MASTERS: I don't have that exact number for you.

COUNCILWOMAN BLACKWELL: After this, could we pause? Councilman Clarke wants to respond to something you said. And after the two of you, Councilman DiCicco has questions as well.

COUNCILMAN KENNEY: And I'd like to come back because I have a few others.

Does anybody know that number?

MS. BERSON: About $14,000 dollars.

COUNCILMAN KENNEY: One of our more informed members of the audience, Lenora Berson, told me about $14,000 is, in fact, the current 50 percent of median income for the SMSA.

Thank you, Madam Chair. I'd like to come back.

COUNCILWOMAN BLACKWELL: Certainly.

COUNCILMAN CLARKE: Madam Chair, I want just to respond to Councilman Kenney on some of the questions that he was asking Mr. Masters.

When we looked at strategy for this particular legislation, one of the concerns in determining a geographical area, there's just not enough accurate information to determine where those could most be affected in those particular geographical areas. So what we opted to do is to pick a number, which was 50 percent of median income, and that could be citywide. Based on the discussions that I've had with some people, particularly representatives from the state, there's a very strong likelihood that that number would have to be massaged up to get the support on the state level. So we just opted for that. But what we did, it would allow us to have a citywide implication and not say, east to Broad in North Philadelphia or Southwest Philadelphia because we have low income across the City of Philadelphia. So that's why we took that strategy as opposed to a geographical area.

But the answer is that there could possibly be, and I believe there will probably be, a request to increase that 50 percent median to some degree.

COUNCILMAN KENNEY: Thank you.

COUNCILWOMAN BLACKWELL: Thank you very much. Councilman DiCicco?

COUNCILMAN DICICCO: Thank you, Madam Chair. Good afternoon.

MR. MASTERS: Good afternoon.

COUNCILMAN DICICCO: The area, the section which we refer to as eligible area -- Philadelphia is very unique in the sense that although we're a city of neighborhoods, neighborhoods are not generally consistent in terms of property values. You can literally have a one-square-block area of deteriorated, blighted, vacant and abandoned homes, and across the street you have a very stable well-kept, well-mannered, well-maintained block of homes. How do we determine the eligible areas? I read the language here, but do you make that determination based on a two, three-square block area, or is it based in, again, are we going back to the old market value? Because I'll give you an example. The housing development I've been trying to get going in South Philadelphia, which we refer to as Jefferson Square, was basically a two to three-square block area of a lot of abandoned, vacant houses, deteriorated buildings. The area just east of 4th Street, which is the boundary between Jefferson Square and, say, Pennsport, housing are selling for $150, maybe as high as $200,000. So where does the eligibility begin and end? Have we gotten that far down the road on this to determine that, or who will make that decision? Because somebody can argue, well, I should be eligible because although my block is stable, across the street is deterioration.

MR. MASTERS: The eligible area question is not as tied in with the question of where gentrification is occurring, as you might think. The eligible area question is -- the way we define it or the way that the statute defines it is very, very broad and loose. The state statute has the same wording as we have, which is that the area has to be an established residential area or an area of deteriorated, vacant or abandoned homes and properties. Any established residential area in the City would be eligible, any area of abandoned, vacant or deteriorated homes. Between the two categories, the only other categories that comes to my mind would be industrial, commercial sectors where people don't live. This basic definition means wherever people live, it's an eligible area for the program.

What really is the more important definition is where these market values are increasing. Because of what we define as gentrification under the state statute and under the ordinance, as opposed to the eligible area, and what I said earlier was that it's not, obviously, if somebody refurbishes or renovates their own home and increased their market value, that's obviously not gentrification. But when your neighbors do and then it raises your market value substantially, then that can be gentrification. It's something that requires a level of expertise, which is why we put it over to the BRT, as the body who really has the most expertise in assessing values from year to year of all the residences, it's a question of expertise. It's not something that's quite easy to define. But in terms of the coverage, think of the eligible area definition as just a question of coverage. And we're not defining that based on neighborhoods or census tracks, we're defining it based on whereever people live.

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

COUNCILWOMAN BLACKWELL: You're welcome.

Councilman Kenney?

COUNCILMAN KENNEY: Thank you, Madam Chair.

The enabling legislation that's required in Harrisburg, the changes that are needed, will they be made to the statute or -- they don't have to go back through the Constitutional amendment process, correct?

MR. MASTERS: That's correct. The Constitutional amendment did not place any specific limits on first class counties or cities, only the state statute did.

COUNCILMAN KENNEY: Okay. And the issue of deferral, I guess there's a possibility that at some point in time the deferral of the increased taxes could exceed the value of the property, I guess theoretically could happen?

MR. MASTERS: That's more of an expertise question for the BRT, but it's certainly possible that -- we're talking about the incremental increase in the taxes, not the overall taxes.

COUNCILMAN KENNEY: Not the overall taxes, just the rise?

MR. MASTERS: So I don't have that kind of expertise to know how many years the market would take.

COUNCILMAN KENNEY: But the market -- it could keep pace with the market. Although the taxes -- Dave, do you have any thoughts on --

MR. GLANCEY: Madam Chairwoman and members of the Committee, I'm David Glancey, Chairman of the Board of Revision of Taxes. Yes. I raised that question with Mr. Masters and Councilman Clarke when we met during the summer. And I do believe that at some point in time -- and I couldn't give you numbers, Councilman -- but at some point in time it could be a market value -- that the taxes would outstrip the market value. I think that's what you're question is.

COUNCILMAN KENNEY: Okay. Thank you,

Madam Chair.

COUNCILWOMAN BLACKWELL: Thank you. We have a question from Councilman O'Neill and then Councilwoman Tasco.

COUNCILMAN O'NEILL: Under this bill would the amount of taxes that are deferred eventually be paid when the property is sold or the person dies that owns the property, if there's an estate, or do they just disappear?

MR. MASTERS: No. The intent of the bill is that they not disappear. We could have in Philadelphia grant to people exemptions from any tax increase due to gentrification under the Constitution and under the state statute. The bill does not grant any exemptions. It only grants deferrals. So the intent is -- we don't spell that out in the bill. That's something that would be under the regulations that the BRT would do to implement the bill. It could be in the form of a lien -- it probably would be in the form of the lien.

COUNCILMAN O'NEILL: Would there be legal interests added each year?

MR. MASTERS: I'm sorry. I didn't hear

that.

COUNCILMAN O'NEILL: Would there be legal interests added each year?

MR. MASTERS: That's not specified in the bill.

COUNCILMAN O'NEILL: Would it be interest free? Or would there be a stated interest? Would the money just be interest free? I mean, the lien part was what I thought would happen. And I don't object to any of this. I've been through meetings many years ago with senior citizen groups, and whenever this came up and the word that's spelled L-I-E-N was mentioned, if there were tomatoes and eggs in their hands I would have gotten them front and center. Senior citizens, particularly, who have worked their whole lives, never had a lien on their property, never to pay a bill late, never a parking ticket or any other kind, when they hear the word lien it is, like, satanic to them. I mean, it's just the worse word you could use. When you mention interest building up, it's worse, but the lien was the real explosive device when this was being contemplated back during the early '80s period, which is the last time we had, I guess, the level of assessment dialogue that we're having today. So I just wanted to get some idea on that. And if you don't know, if there's no stated interest or it's still to be decided that's --

MR. MASTERS: No, there will be no interest. The legislation does provide for no penalties or interest.

COUNCILMAN O'NEILL: That's fine. No interest.

COUNCILWOMAN BLACKWELL: Thank you very much. Councilwoman Tasco and then Councilman Nutter.

COUNCILWOMAN TASCO: I'd just like to follow-up on the line of questioning that Mr. Kenney raised in terms -- or someone raised about stripping the value of the property. It sounds predatory to me. Because I live in my house, properties are going up all around me. My assessment is deferred until I die because most of the people stay in their homes. They don't move. They usually die there. And then if the taxes exceed the market value, it strips the legacy of passing the home on to an heir. You know, a lot of people buy homes because they want their daughter or their son or somebody to continue to live in the home. And if you're delaying the taxes instead of finding another way for us to deal with this whole issue, then you could end up stripping the neighborhood in the end anyway. You're, in essence, taking the house out of the family. It's like a predatory loan, Steve.

MR. MASTERS: Councilwoman, that also is a policy question as to what extent the tax benefits should be, in the form of a deferral or an exemption or combination of the two. And this legislation was written in the form of a deferral with the intent of, on the other side of the equation, not depriving the City of Philadelphia of the increased revenue that the City would rightfully be entitled to because the value of the City's property increased. And, therefore, the City is a more valuable place, a more attractive place, has more services that it could provide to people with that kind of increased revenue. So that's a balancing policy issue that I can't comment on.

COUNCILWOMAN TASCO: Well, you know, there is some other bills that we will be discussing, I'm sure in the Finance Committee, which we will talk about, but the noise I hear from my constituents is the fact that the assessments are too much, too quickly. And so while it may not be a gentrified neighborhood, the rates are going up and the income levels are not necessarily going up to that level, meaning the level of the assessment.

And so -- and while I live in a very nice neighborhood, the market values of where we are not like you see in some of the other areas. You haven't had a serious jump. It's sort of in a steady increase. Not a whole lot, but the rate of increase is a little larger than the percentage of increase in the sales value. So I think this is what Councilman Clarke is trying to do to protect his people, but also we have issues in our area that --

MR. MASTERS: Well, this legislation is not aimed at addressing the problem that surfaced recently of dramatically rising market valuations by the BRT and the increased tax assessments. This legislation isn't aimed at that. On the other hand, it doesn't diminish from that at all. This legislation is aimed at the phenomena of gentrification. To the extent that gentrification may be happening at the same time that this other phenomena of the internal assessments being done is something that is a complicated area of analysis, but this legislation, as the Councilman said, was authored back in the spring before the most recent wave of assessments came out. And it applies citywide. It isn't simply in North Philadelphia or in the Councilmanic district where the sponsors are from. And it really is aimed primarily at protecting longtime homeowners from the negative effects of -- potential negative effects of NTI which would mean -- there's many positive effects of NTI. It would be a negative effect if people are forced to evacuate their homes because they no longer can afford to live in the same neighborhood that they've lived in for a long time. So that's the primary impetus behind the legislation.

COUNCILWOMAN BLACKWELL: Thank you very much.

Councilman Clarke and then Councilman Nutter.

COUNCILMAN CLARKE: I just wanted to respond to Councilwoman Tasco. Councilwoman, before you got here, in the opening statement I made mention of the fact that this bill was introduced in the spring prior to the current controversy associated with the new assessments and the new market value. So we had no sense of what would happen down the pike. And this was a bill that was targeted based on concerns raised by constituents, not only mine, but constituents across the City who lived in areas that had potential gentrification when there was massive redevelopment either associated with NTI or the private sector. So that's where this bill was focused, not to address today's concerns.

COUNCILWOMAN BLACKWELL: Thank you.

Councilman Nutter.

COUNCILMAN NUTTER: Thank you. Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: You're welcome.

COUNCILMAN NUTTER: Just a couple questions. I haven't had much opportunity to talk with Councilman Clarke about the bill or much of the motivation behind it. He did share some information with me just a while ago, so I do kind of come to this rather fresh and with open eyes. Let me just from a process standpoint -- when I came in you were making testimony. Did you have written testimony and is it possible I could have a copy of it?

MR. MASTERS: I don't have written testimony. I do have a memorandum that I provided to Councilman Clarke and I believe that would be at his discretion as to whether he would release that.

COUNCILMAN NUTTER: Right. You're absolutely correct. So, I mean, your comments were just kind of everything you know about this and things that you were putting on the record in terms of -- I apologize for missing the beginning of it.

MR. MASTERS: I drafted the legislation --

COUNCILMAN NUTTER: You drafted legislation working with the Councilman.

And Mr. Glancey and Commissioner Kammerdeiner, do you have any written testimony that we could kind of go over later on if I miss anything?

MS. KAMMERDEINER: We haven't testified yet, but I have a draft that would need to be finalized. It has handwritten notes on it, but we can certainly share that after the fact, yes.

COUNCILMAN NUTTER: Okay. Thank you.

Now, I note when we started, there was a lot of discussion about the gentrification issue and various state statutes that may already exist. I don't necessarily want to go back over all of that, but could you tell me, Mr. Masters, maybe in 25 words or less -- and the Councilman did share with me that there had been some attempt at dealing with these particular issues I think maybe back in the '80s. I could be wrong about that. What's on the books today to deal with the whole gentrification issue either at the city or the state level?

MR. MASTERS: Councilman, we don't have any legislation on the city level to deal with gentrification. We do have a program for senior citizens that provides a complete exemption for any raises in property values -- taxes due to a raise in property values for eligible senior citizens that are currently -- the current eligibility is set at senior citizens who qualify for the PACE program, the pharmaceutical assistance for the elderly.

COUNCILMAN NUTTER: That was City legislation from a few years ago, right?

MR. MASTERS: Correct. And that's pursuant to a state law.

COUNCILMAN NUTTER: I got that. I know

about that.

MR. MASTERS: There isn't anything on our books for Philadelphia dealing with gentrification. There were bills that were introduced in the past. None of them were passed.

COUNCILMAN NUTTER: At the state level?

MR. MASTERS: No.

COUNCILMAN NUTTER: At the city level?

MR. MASTERS: At the City Council. On the state level in 1989 Senator Fumo authored the legislation that was enacted by the General Assembly that empowers Philadelphia and Pittsburgh to pass local ordinances.

COUNCILMAN NUTTER: To deal with the issue?

MR. MASTERS: Correct. And Pittsburgh has done that quite some time ago. We have not.

COUNCILMAN NUTTER: All right, thanks.

Now, what has been our past experience with gentrification in different parts of the City? Do you have any knowledge or information about that?

MR. MASTERS: I don't. I'm not here as an expert on gentrification, but really to address the technical aspects of the bill. We do have in our files past studies that were commissioned by Council, I believe, too, where the City Planning Commission analyzed the potential impact of enacting legislation on the local level to implement the state law. But those studies, the most recent one is from 1989, so they have to be updated.

COUNCILMAN NUTTER: And to your knowledge, do we have any more recent experience in neighborhoods throughout Philadelphia that have been in any way, shape or form confronted by the issue of gentrification? What's our most recent experience?

MR. MASTERS: When you say experience, I'm not sure what you mean. Are you saying do we know whether people have been forced out of their homes?

COUNCILMAN NUTTER: Do we have any recent examples of gentrification in Philadelphia in recent times?

MR. MASTERS: Over the years there have been many transformations of change that would define gentrification.

COUNCILMAN NUTTER: What are some of them?

MR. MASTERS: Art Museum, Society Hill,

Queen Village, Bella Vista. The neighborhoods they consider hot real estate areas frequently in the past described a number of years back you'll find neighborhoods that dilapidated or depressed or deteriorated.

COUNCILMAN NUTTER: When you say going back five years --

MR. MASTERS: Ten years, 20 years, 30 years for different parts of the city.

COUNCILMAN NUTTER: The Art Museum area, when did that change?

MR. MASTERS: I don't have the specific dates.

COUNCILMAN NUTTER: Are there examples of people who were, quote/unquote, forced out of their homes?

MR. MASTERS: I don't have particular data. From all the review of literature that I've seen, it's going back to the Model Cities Programs in the 1960s, where not only were people forced out of their homes, but their homes were literally bulldozed and made way for other neighborhoods. Throughout the history of urban renewal, it's been well documented in all metropolitan areas.

COUNCILMAN NUTTER: Well, I understand that. Are you anticipating that on a going-forward basis? I mean, do we have any plans to do that now?

MR. MASTERS: Not in terms of bulldozing neighborhoods. But the fear is that with NTI and with the private redevelopment, that people simply will not be able to afford their property tax burden in a situation where their neighborhoods previously had depressed values, were not well-maintained neighborhoods, and therefore they were affordable. It certainly -- this is an issue of affordable housing for people who are -- have a long-term stake in a neighborhood who don't want to leave.

COUNCILMAN NUTTER: I understand that. I understand that. So the theory is that after, say, extensive demolition in some places, land is clear, land is assembled and the new development opportunity comes along, people who are, to some extent, either in the designated area or on the periphery of the assembled land, that a new development will come along and that their taxes will instantly rise as a result of that? Is that the concern?

MR. MASTERS: The way -- you'll hear

from Mr. Glancey that it's somewhat complicated as to how they assessed properties based on what are the comparable properties and what are the areas that they look at. But in general, which is a good phenomena for the City, whenever we do redevelopment or whenever we improve on the housing stock in the community, those neighborhoods become more attractive. They become more valuable because they literally are more valuable. People have put value into those neighborhoods. What happens is, if you are a resident of that neighborhood on the block or the next block, through no fault of your own, your now sitting on a much more valuable asset and you don't have any more disposable income to finance that to award the City --

COUNCILMAN NUTTER: I understand that. I'm going through that right now.

MR. MASTERS: So that's the phenomena. And specifically how these assessments are done, I'm certainly no expert at that, although I may be at some time in the future due to other assignments I've been given in Council, but at this point --

COUNCILMAN NUTTER: You never know what you become an expert of around here.

MR. MASTERS: At this point I don't pretend to be an expert on that. But the basic phenomena that's been well documented throughout the United States and in Philadelphia as well, is that when a neighborhood is improved, when the housing stock improves, residents benefit from that and they also suffer from that in terms of their tax burden.

COUNCILMAN NUTTER: Now, what areas of the City are you anticipating that may be potentially affected by this?

MR. MASTERS: That's somewhat of a policy question. We drafted this legislation to cover --

COUNCILMAN NUTTER: It's not possible for it to be a policy question.

MR. MASTERS: Well, in terms -- we drafted this legislation so that it could cover any area of the City that's undergoing gentrification.

COUNCILMAN NUTTER: I got that part. My question was, what areas of the City do you anticipate potentially being affected by this?

MR. MASTERS: We anticipated any area that was undergoing dramatic revitalization through NTI or through any kind of private initiatives. And that isn't just in the short time. Obviously, this legislation will be on the books for quite some time and so this will extend onward.

COUNCILMAN NUTTER: Okay. Now, there's a provision in the legislation -- and I caught one of the exchanges back and forth and I'm not sure who you were responding to, but it talks about, "Physical improvement of subject property shall be presumed to be attributable to the refurbishing" -- I think it's in 19-3450A. "Any increase in the market value of real estate which exceeds 5 percent from the previously established market value and which is not attributable to the physical improvement of the subject property shall be presumed attributable to the refurbishing or renovation of other residences or the construction of new residences."

Now, how did you, I guess, arrive at that particular conclusion and what other factors serve as a basis for any criteria for an increase in assessment?

MR. MASTERS: We took that section, Councilman, from the Pittsburgh ordinance which establishes that as a -- not even a presumption. In the Pittsburgh ordinance, they tried to make it less discretionary. And in that ordinance, it says that if your property values have gone up 5 percent or more, then you are eligible for the tax relief. Because they presumed that -- that was their assumption. That anyone whose property value went up that much -- Pittsburgh is apparently --

COUNCILMAN NUTTER: That sounds more like a cap.

MR. MASTERS: No, it's a -- anything that was between 0 and 5 percent in Pittsburgh was not necessarily related to gentrification under their ordinance.

COUNCILMAN NUTTER: No, I understand that. I'm just saying, based on what you just said, it sounds like anything that's more than 5 percent ends up in a deferral.

MR. MASTERS: No. It's a rebuttable presumption under our legislation, so that then the BRT can look at it and say, no, the reason -- if they're going to deny the deferral application, they can say, no, we've determined that the reason your property value went up 5 percent was because you were undervalued substantially. You were undervalued 25 percent or 50 percent. So the reason we've raised your property value is not because your neighbors are improving your neighborhood, but because you were undervalued. So it's a --

COUNCILMAN NUTTER: I understand that. But then you're saying that if it's more than 5 percent, it can then only be attributable to improvements that the person has made to their own home?

MR. MASTERS: No, no, no. Any increase -- the only way that you're eligible for this program for this tax relief is if you have market value that's increased because of refurbishing or renovations in your neighborhood or new construction. That's the only way you're eligible. If you put new value into your own home you'll never be eligible for this program to that extent. But it's a complicated question because you might have added a deck or renovated your kitchen and your neighborhood might be --

COUNCILMAN NUTTER: Suppose there was redevelopment in the neighborhood and I did improve my house. I mean, which is it?

MR. MASTERS: You'll be entitled to some

relief, but not all. The BRT will have to determine how much of the increased value of your property is attributed to your own --

COUNCILMAN NUTTER: How do they figure out?

MR. MASTERS: That's for Mr. Glancey to --

COUNCILMAN NUTTER: Are they going to send somebody out and inspect the house?

MR. MASTERS: We don't specify that in our legislation. That's under the rules and regulations that the BRT could promulgate in order to implement this. And I would defer to Mr. Glancey and the other witness to explain how they could accomplish that.

COUNCILMAN NUTTER: So let me, again, make sure I understand. If the person does nothing to their home and for whatever reason -- we're dealing with market value, not assessed value, but assessed value is a function of market value -- and they're market value by way of the BRT goes up more than 5 percent, the person has the opportunity to appeal. They say, well, I didn't improve my property and, therefore, it is automatically presumed that the only other reason it went up is because of other activity going on in the neighborhood having to do specifically with either new construction or improvements to other people's properties?

MR. MASTERS: It's a rebuttable presumption. It's not an entitlement. So that if you meet the burden of showing that your market value has gone up 5 percent, it's now on the BRT --

COUNCILMAN NUTTER: You don't have to meet any challenge for that. Your notice is going to tell you that.

MR. MASTERS: Sure. It's an easy burden. Then the BRT has the burden of proof of coming back and saying, no, we don't think that it was due to gentrification, we think it's due to some other factors. In other words --

COUNCILMAN NUTTER: What would those other factor be?

MR. MASTERS: The question is who has the requirement of meeting the evidence.

COUNCILMAN NUTTER: I got that.

MR. MASTERS: Okay.

COUNCILMAN NUTTER: What are the other

factors?

MR. MASTERS: Anything else other than what's delineated in our ordinance would not be compensable under our program. So that if your market value --

COUNCILMAN NUTTER: I'm totally not being argumentative, but I have no idea what that last statement meant. You know you have me at a disadvantage here, you're an attorney, I'm just a guy from West Philadelphia trying to figure out what's going on here. You're twisting me around with --

MR. MASTERS: I'm sorry.

COUNCILMAN NUTTER: -- highly sophisticated legal arguments. I mean, I'm at a loss here.

MR. MASTERS: I'm not an expert on market valuations, so I don't want to spell out --

COUNCILMAN NUTTER: Well, if we wanted that we'd bring Eugene Davey over and then none of us would have any idea what's going on, so please don't do that.

MR. MASTERS: From our understanding from drafting this legislation, we thought that there was three basic reasons why people's property values would go up.

One is that they contributed value themselves to it and made it more valuable.

The second is that the neighborhood became more valuable because of other people's improvements and, therefore, the market value went up.

And the third is that, according to the BRT's assessment, they were undervalued so that we're looking at -- they're not selling their house and the market value is not an empirical value of what someone has offered them. The way to determine market value when someone hasn't had a transaction is for a government agency to value it or for an appraiser to value it. But in this case we're going on the basis of an agency valuation. So the BRT says to the homeowner that their value has gone up. It may be because they had undervalued them before and now they're doing equalization or the other phenomena that we're familiar with, or maybe because the value has gone up because their neighborhood has become hotter neighborhood. If it's a hotter neighborhood, they're going to be qualified for --

eligible for benefits under this. If it's that the neighborhood is not undergoing gentrification, but really it's an administrative technicality, that their market value really hasn't gone up, but that under our books it has gone up only, then they're not going to be eligible.

COUNCILMAN NUTTER: All right. Why don't we move on from that area. The 10 year -- apparently you had also put together a chart trying to match up some of the provisions of the bill and, as you call it, the source of authority for which kind of stands behind or justifies those particular provisions. The 10-year standard on longtime owner-occupants, that apparently is already in state statute?

MR. MASTERS: Virtually everything in our legislation is identical to the state statute. The only difference is low-income features.

COUNCILMAN NUTTER: I understand that. And I'll get to that. The provision, though, on the five years for the person who -- they got a home, I guess, through a government program. "A person who for at least five years owner-occupied same dwelling as principle residence domicile within the City."

It says, "The person received assistance in the acquisition of the property as a part of the government or non-profit housing program." Where did that come from?

MR. MASTERS: That's the same state statute.

COUNCILMAN NUTTER: Same? It's all a part of the same? And the five years?

MR. MASTERS: Correct.

COUNCILMAN NUTTER: Okay. Do you have a map based on, I guess, the 2000 census data of -- that would give us a more visual indication of the 50 percent median income owner-occupied standard? Where would you have that?

MR. MASTERS: I have a map based on the 1990 census data. OHCD didn't have the 2000 to give me a map of that. The map, though, isn't as helpful for us as you might think because the map will show us only areas those income groups are in the majority in those census tracts. And this legislation is dealing with citywide, anybody who has that income. So that if you're a low-income person but you're not in the majority, you won't show up on those maps. The idea was --

COUNCILMAN NUTTER: I don't think they completely exclude them. I thought some of that stuff, at least from the Planning Commission, will show gradations of majority of certain people with income levels and then a gradual decline from the 51 percent threshold down to 30 to 40 percent of the people in this particular census tract have this income level on down to 10 percent. I don't think the people disappear.

MR. MASTERS: No. It may. That's not the map that I have. The map that I have only shows the census tracts that are majority.

COUNCILMAN NUTTER: But let me understand again. If you are a low-income person and wherever you live in the City, if there's no new construction or significant development activity in your particular neighborhood, notwithstanding your low-income status, and if your market value increases beyond this 5 percent threshold, what's your argument?

MR. MASTERS: It would be quite unlikely that it would increase --

COUNCILMAN NUTTER: I'm sorry?

MR. MASTERS: It would be quite unlikely

that your market value would increase. In those areas where --

COUNCILMAN NUTTER: Why?

MR. MASTERS: Because market value increases for particular reasons, it's not arbitrary. If your house becomes more valuable --

COUNCILMAN NUTTER: You might want to talk to some of my constituents about that. But I mean, even in the current situation, I mean, are you saying that there no low-income people who are experiencing increases right now?

MR. MASTERS: Our understanding is that --

COUNCILMAN NUTTER: We don't have any development going on in their neighborhood today and there are no new houses being built. And I don't know whether people fix up their houses or not. I mean, they don't call me to tell me that they're putting new aluminium siding on. But I mean, in the current situation -- and I'm not trying to draw you into that particular controversy. We'll deal with that later. I'm just asking the question. There are low-income people, who I'm sure meet this definition in some neighborhoods in this City, whose assessments I'm sure have gone up more than 5 percent. Now, what is that attributable to and why is that different than what you have in front of us today?

MR. MASTERS: It is the intent of this legislation to create a presumption above the normal raise of market value in neighborhoods in Philadelphia. So if by the normal course of events people's market value are going up at least 5 percent, then we would have to alter that figure to a higher number so that it would make sense. We're not trying to catch -- the 5 percent figure was an attempt to create an amount beyond which it was fairly obvious that it was a gentrifying situation as long as the other criteria were met.

COUNCILMAN NUTTER: Stop right there. Stop right there. If you're a low-income person in Section A of the City and you're a low-income person in Section B of the City, and let's say that they're as far apart from each other as possible. Are you saying that by way of the legislation, if low-income Person A's market value goes up more than 5 percent and they happen to be in an area where possibly there is gentrification activity going on, new housing construction, everybody's fixing up their house, whatever, they can make their application. The presumption is for that low-income person, that the only reason their values went up is because of either government activity, private activity, NTI activity, somebody's activity in their neighborhood and that, therefore, that's a gentrifying effect and they should be protected from that? That's your premise?

MR. MASTERS: We try to set the value -- and you could disagree with the 5 percent. You could say it should be 8 or 10 --

COUNCILMAN NUTTER: I'm not into the 5 percent. 5 percent, 10 percent, 50 percent, it doesn't matter what the number is.

MR. MASTERS: Whatever the value is, we're trying to set it beyond the normal raise of property values every year.

COUNCILMAN NUTTER: Stick me with me. So we talked about low-income Person A.

MR. MASTERS: Right.

COUNCILMAN NUTTER: Low-income Person B lives in another part of the City where there is no NTI activity going on, where there is no new construction going on, where no one is doing anything particularly special to their house, but their value went up more than 5 percent. That person, from what I'm hearing -- and maybe I'm not understanding -- that person cannot make the same argument that Person A can make, both of whom are low-income people; is that what you're saying?

MR. MASTERS: No. But our understanding was --

COUNCILMAN NUTTER: What's low-income Person B's -- what is their case when they go to the BRT?

MR. MASTERS: Let me just start with the assumption. Our assumption at setting the 5 percent was that in low-income neighborhoods, property values were not rising 5 percent a year as a matter of course. If, in fact, they empirically are, then we would set the value differently.

COUNCILMAN NUTTER: Since I'm making the example, I'd like to stick my with my example. I would submit, at least for the moment, that your presumption is wrong. Okay? So let's stick with my example.

MR. MASTERS: Okay.

COUNCILMAN NUTTER: They do go up more than 5 percent. They went up more than 5 percent for either of these people who live in two totally different neighborhoods in the City, but they have the exact same income. I want to know what does low-income Person B, who lives in another neighborhood in the City who does not have construction activity, new development or everybody fixing up their house, what is their appeal and what's their case that they're making to the BRT?

MR. MASTERS: They would file the same appeal. They would say, my property values went up 5 percent or more and I should get this program. Then the BRT would look at their situation and they would say, well, we don't see the criteria for the program being met here. We don't see the gentrifying activities in your neighborhood, so your market value -- you wouldn't qualify.

COUNCILMAN NUTTER: Stands where it is?

MR. MASTERS: You wouldn't qualify.

COUNCILMAN NUTTER: You would not qualify?

MR. MASTERS: Right. But the way -- if your example could exist, then that's a problem with this legislation. The legislation is designed to set a presumption above the normal rise of market value. And our understanding is that in low-income neighborhoods property values --

COUNCILMAN NUTTER: I understand that. But if the effort is to protect low-income people -- and I believe that is the effort here.

MR. MASTERS: Right.

COUNCILMAN NUTTER: And I agree with that particular effort. Well, look, if you're a low-income person and your assessment has gone up and you have to pay more money, I mean, I don't know at the end of the day whether you really care very much whether you're being forced out of house because of gentrification or you're forced out of your house for some other reason. Forced out of your house is forced out of your house. More money out of your pocket -- I mean, this is not a theoretical discussion. This is real money, dollars and cents. And so why do you care and how do we protect the group of people that the -- again, the legislation is clearly designed to protect low-income people, I believe, wherever they live. I'm just trying to make sure that all of the low-income people get a certain level of equal protection all the way around. And if you're in two different neighborhoods and your income is the same -- I think that the person who's in Section A where the activity is going on and can make that argument to the BRT is now at a disadvantage to the other person in the other neighborhood who has no defense, other than the fact "You live in a nice neighborhood, be satisfied with it. Aren't you glad that values are rising in your community? Sorry you can't afford it." And you have no defense.

MR. MASTERS: I understand what you're saying. This legislation is only pursuant to our authority under state law. And the state law limits us to providing tax relief for only gentrification. If we had a state law that would give us tax relief for low-income people in general, I would totally support that.

COUNCILMAN NUTTER: You know, in a perfect universe, you would have that power. But we're here with the City. So let me just kind of make sure. It would be your testimony that there is a clear distinction between how the low-income person in the A example and what their defenses are is clearly different than the low-income person in the B example, both of whom have the same amount of income, either of which might be pushed out of their particular neighborhood. The one can say, "Stop the increase because I'm subject to gentrification," the other has no ability to make that argument; is that correct?

MR. MASTERS: No, I don't think so.

COUNCILMAN NUTTER: Because why?

MR. MASTERS: The primary purpose behind the legislation --

COUNCILMAN NUTTER: I'm not talking about the primary purpose of the legislation. I gave you an example. I've asked to apply the legislation to that example. I want to know if those people are going to be dealt with the same.

MR. MASTERS: If the primary purpose behind the legislation is to protect low-income homeowners and keep them in their homes, then the BRT -- then this legislation could be somewhat amended. Although I don't think we could amend it very much without getting us completely outside the realm of what we're looking at in the Constitution. Because not only do we have to get new state legislation so that we can do a low-income focus on our benefits, but we have to comply with the jargon in the Constitution. Because the basic rule in Pennsylvania is all people have to be taxed equally. The only exception to that is whatever the Constitution allows us to do. And the Constitution has allowed us to do that for gentrification, allows us to do it for senior citizens, disabled, and a couple other criteria. If we could do it within the rubric of the Constitution, then we could either amend this legislation or have the BRT promulgate regulations that say, you know, if someone's property value goes up 5 percent, that means hands down then they've been gentrified and it doesn't matter if I can't spot a bulldozer in the next block over. If that's your argument, which is a policy argument, as to how to best protect low-income homeowners in the City, there's ways to do that. But the intent of this legislation was not, number one, aimed at low-income homeowners. The intent of the legislation was aimed at protecting people from gentrification.

COUNCILMAN NUTTER: Mr. Masters, you can't say the intent of the legislation is not to protect low-income homeowners because it's in the first finding and, I mean, that is what legislation is about. It is designed to protect low-income homeowners. There's nothing wrong with that. "Low-income, longtime homeowners." It's in the definition. It's part of the criteria. There's no dispute about that. All I want to know --

Then answer this question. Answer this question. Tell me what the defense is for low-income Homeowner B who is not in a gentrified area whose market value goes up more than 5 percent and they cannot point to any other factors?

MR. MASTERS: It's beyond the scope of this legislation. What you're talking about is the subject of other legislation to cap --

COUNCILMAN NUTTER: I understand that. But I thought the point was to protect low-income homeowners.

MR. MASTERS: No. You told me I can't address that. The point is to deal with gentrification. And what we're trying to do is target it so that the City doesn't lose excessive revenue from -- we can protect everyone from gentrification. But most people don't feel that sympathetic to people who are in the upper end of the income scale who might -- their neighborhood might have gotten a little more valuable. But it isn't really the role of government, as far as the sponsors are concerned, to protect them to the same extent that we want to protect the most vulnerable and the most needy in our City. So we've targeted low-income people for benefits. But the intent is to protect people from the ravishing effects of gentrification and to keep people from being forced out of their homes due to gentrification.

I agree that there are many other reasons that are forcing people out of their homes due to taxes and, unfortunately, under the state statute that we're dealing with we can expand that scope -- I wish we could deal with all the problems that are going on right now. If we can find other ones, believe me, we will be doing that as your tech staff and coming up with those kind of revenues.

COUNCILMAN NUTTER: I appreciate that. Mr. Glancey, let me ask you a question. Let's say that there was a four square-block area that -- anywhere in the City -- that there was significant demolition activity, the land was cleared, sites were assembled, they were land banked. Someone came along and said, this looks like a great site for a hundred, $200,000 houses. Say, more on the reasonable side as opposed to the half-million dollar homes. Tell me from the BRT perspective, not only in theory but hopefully in reality, what happens at the site where the hundred to $200,000 houses are built and what, from your experience, whether in theory or in practice, happens to the residents in the peripheral area who stayed, didn't leave, may, in fact, be low-income or whatever their income status may be? What does the board do first with the new houses? I assume they all qualify for the 10 year tax abatement. Does the board even at that point make a determination as to both the market value and the assessed value of the new property notwithstanding its 10-year tax abatement?

MR. GLANCEY: Yes, Councilman. And I'll try to answer all of your questions as a practitioner rather than trying to be theoretical, because I think that really does help you decide about this legislation.

Initially for new construction, we will put on the new construction. Abated or not, but obviously all new construction, new residential construction abated now. We will put on a value that is probably within 70 or 75 percent of what those homes are selling for. That's all the new construction. Now, we have other homes surrounding the new construction -- do you want me to go forward with that?

We have other homes surrounding the new construction. And let's say it is a development of 35 homes and then there are three other blocks that have the already existing homes there.

COUNCILMAN NUTTER: Which we assume are of slightly different size, type, style and, naturally, age.

MR. GLANCEY: Absolutely. They're different styles. We will never use the comparables of the new construction. We will never use the new construction values as comparables for those other properties that surround that. Now, what might happen, and I think what gentrification means in some way, is that two, three, four, five years down the road if that development is so successful, other sales will take place in those houses surrounding that development. And if those other sales take place that increase the values of those other homes, well, of course we're going to use the comparables of those other homes, and there may be an increase in value. It won't happen right away because we don't know what the values are.

COUNCILMAN NUTTER: When you say, those other homes, are we talking those other homes as in the existing homes that have been there prior to the development, or are we talking about those other homes which are the new houses?

MR. GLANCEY: I'm sorry. I'm not being clear. Those other homes in my example are those existing -- the preexisting properties prior to the new construction.

COUNCILMAN NUTTER: Okay. But there's an assumption that the existing homes close to the new construction make that general neighborhood more valuable and the -- maybe within a block or two of that newly developed site some people say, well, maybe I can't live in the new houses, but maybe I want to live in the existing houses nearby. Doesn't that start to increase the value of --

MR. GLANCEY: The values only change when sales take place. I will give you an example, and maybe there's a stigma attached to this example, but I will tell you. On Osage Avenue when all those new homes were built, there was no increase in value of the homes surrounding Osage Avenue. They were brand-new homes. Now, of course, that's a different situation because of what brought it on. However, I think is analogous. There are certain neighborhoods where you're not going to see the preexisting properties gain in value. And if they do, we will only react when there are sales of those preexisting properties, not the sales of the new construction.

COUNCILMAN NUTTER: You heard the very long and, at times I'm sure Mr. Masters felt, torturous question about the two different low-income homeowners who were in wildly different, faraway sections the City away from each other. What happens under -- I'm sure you read and analyzed the legislation. Under the legislation, for the Homeowner A who is in the potentially gentrified area, they make their argument, they've got more than 5 percent increase. You happen to know or you send your investigators out and find out, yeah, there's personnel and heavy equipment and a whole bunch of activity either out there or they just built the last house and those places selling for whatever they're selling for. My property went up 5 percent, 8 percent, whatever the case may be. I haven't done anything to it. I haven't painted it in 20 years and it's the same old house that it ever was pretty much from the time I got here. They make their argument.

MR. GLANCEY: Example A probably wins their argument based on your hypothetical.

The same argument is made by B, correct?

COUNCILMAN NUTTER: Right. Well, B says, I haven't done anything to my house and I don't see anybody else doing anything around our house. There are no new houses to be built around here because there's no area to build anything around here. And my market value went up or my bill went up 8 percent. I think I'm subject to gentrification. What do you say?

MR. GLANCEY: Well, in your hypothetical, it doesn't sound as if they would win that argument because you're not telling me it's gentrified. You're telling me what happened is that market values have just gone up 8 percent, 10 percent, whatever it might be. I think to be clear, gentrification might have more than one definition. The definition of gentrification that I think Councilman Clarke -- and I'm not trying to put words in Councilman Clarke's mouth or in his legislation. I think what he's talking about is what we call revitalization. We've knocked properties down, possibly, you've cleared some land and you have new construction. Gentrification could also mean -- and you we're referring to that in, I think -- and Councilman Kenney was also referring to it, that took place 20 years ago in some instances and today in areas like Fishtown and Northern Liberties and Port Richmond and Pennsport where --

COUNCILMAN NUTTER: Manayunk.

MR. GLANCEY: And Manayunk. Where folks who generally are younger and generally more wealthy come into neighborhood, find it to be a delightful neighborhood to live, they buy homes at higher prices than they're normally being sold for, refurbish those homes. And when there are sales that take place, sometimes those sales, as we have seen over the last three years, are double, triple, quadruple sometimes what those folks paid for them. That's another definition. Okay. If that existed in your Example B, which I do not believe it did, that would be an argument, it seems to me, that could be made under this bill. Clearly the example A that you used, that argument would be a successful argument under this bill.

COUNCILMAN NUTTER: Now, I walked out of the room. This will be my last question. The Chair has been tremendously generous. What was the number on 50 percent of median income? And I'm assuming, is that for the single person or for the typical family of four? What is median income these days in our SMSA?

MR. MASTERS: Councilman, I didn't have the exact number, but someone in the room reported it to be 14,000. That would be for a single person. It would be the same number as the PACE eligibility for a single elderly person, which is at $14,000 now.

COUNCILMAN NUTTER: So you're saying median for a single is $28,000?

MR. MASTERS: I did not have the statistics. I don't have the documentation. Someone else in the audience referred to a number.

COUNCILMAN CLARKE: He asked you median.

COUNCILMAN NUTTER: No. My question was what was -- does anybody know what median income is in Philadelphia at the 2000 census rate?

MR. MASTERS: I have the 2000 census profile here. The median household income which is more than single is $30,746. The median family income is $37,036 per capita.

COUNCILMAN NUTTER: Let me put you out of your misery. Why don't we just get that information later.

MR. MASTERS: Okay.

COUNCILMAN NUTTER: My time is way up. Thank you very much.

COUNCILWOMAN BLACKWELL: Thank you very much.

Let me note -- the Chair notes that Councilman Angel Ortiz is also here at our hearing.

Councilman Kenney, you had another question?

COUNCILMAN KENNEY: No.

COUNCILWOMAN BLACKWELL: Are there any further questions by members of the committee?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you.

Then we will proceed with our testimony from the witnesses.

MS. KAMMERDEINER: Good afternoon, Chairwoman Blackwell and members of the Committee on Finance. My name is Nancy Kammerdeiner, and I'm the Revenue Commissioner for the City of Philadelphia. I'm here today to testify in Bill 020438 which would provide a program of real property tax deferrals to qualified low-income, longtime owner-occupants in order to address the problem of gentrification in their neighborhoods.

You've already heard considerable discussion regarding the details of the legislation, so I'll skip some of my testimony that would have described the bill.

The Administration supports the spirit in which this legislation was drafted and is eager to work with Councilman Clarke, who introduced the legislation, and every member of Council in creating policies that will address the very real possibility of rising real estate assessments resulting from the Neighborhood Transformation Initiative. However, the Administration does not support this bill in its present form for several reasons that I'll discuss.

The Administration's first concern is that the legislation is vague with regard to the universe of individuals who may or may not qualify for the benefits and, therefore, it's been especially difficult to develop cost estimates for the legislation. For example, the legislation essentially makes the entire City of Philadelphia eligible. Since we cannot determine how many people would be eligible, it is almost impossible to determine how much the bill would cost. In addition, even if we would be able to determine who was eligible, we don't know how many of their homes would grow in value by at least 5 percent.

With so much uncertainty about the bill's cost, the Administration is reluctant to recommend its passage, particularly at a time when the City's five-year plan faces so many threats. As you know, the plan --

COUNCILWOMAN BLACKWELL: Excuse me, Madam Commissioner, you had copies of your testimony?

MS. KAMMERDEINER: As I mentioned earlier in a question from Councilman Nutter, it has a lot of handwritten notes on it. I'll get a final and distribute it afterwards. I apologize for not having copies right now.

COUNCILWOMAN BLACKWELL: Thank you.

MS KAMMERDEINER: With so much uncertainty about the bill's cost, the Administration is reluctant to recommend its passage, particularly at a time when the City's five-year plan faces so many threats. As you know, the plans contained $178 million in future government efficiencies does not include funding for the salary increases and the recently announced police arbitration award or the upcoming fire fighters' award and continues to be threatened by the sluggish economy.

Second, the bill has additional technical difficulties with regard to some of the definitions. For example, the legislation states that a longtime owner-occupant may have owned or occupied the dwelling for five years instead of 10 years if that person received assistance in the acquisition of the property as part of government or non-profit housing program. Under this definition, it is not clear what is included in the term, "government assistance." For example, would city-granted tax abatements be considered as government assistance?

Further, as a practical matter, it's very difficult to determine whether a certain property is an individual's primary residence.

In addition, there are significant administrative issues that will need to be resolved in implementing this program and cost will be incurred in establishing and maintaining the program.

David Glancey, Chairman of the Board of Revision of Taxes, will talk a little further about some of the legislation's technical problems in a moment. These technical problems do call into question whether this legislation could be effectively implemented; and if it is implemented, whether it would serve the purpose that this Council intends. It's important to emphasize, however, that the Administration does support tax reform. The Street Administration supports reasonable reform of state, City and School District taxes so that Pennsylvania, Philadelphia, and the entire region can continue to be desirable places to live and work. This is why the Mayor strategically accelerated reductions in the business privilege tax and will implement continuing annual wage tax reductions. Meaningful tax reform at the state level should address school funding inadequacy and inequity while ensuring that the City is able to preserve basic City and county services. This Administration welcomes tax reform that is affordable for the City and that improves education for the students of the School District of Philadelphia.

In addition, the City fully supports the creation of a tax reform commission to study Philadelphia's tax structure and recommend ways that it can be improved. The Administration believes that changes to the City's taxes should be done comprehensively so that changes can be part of a larger strategy to make the City more competitive.

As I stated at the beginning of my testimony, this Administration supports the intent of the legislation and would like to work with Councilman Clarke and the rest of Council in determining strategies that will address the issues of rising real estate taxes without damaging the City's budget. Therefore, I respectfully request that the sponsor hold this measure in committee while alternative strategies to address this vitally important issue are refined.

Thank you for the opportunity to appear here today. I will be happy to answer any questions that you may have.

COUNCILWOMAN BLACKWELL: Thank you very much.

Councilman Clarke.

COUNCILMAN CLARKE: Thank you, Madam Chair. Good afternoon. Understanding the fact that there are some issues with respect to information, such as the census data, some of the technical issues, which we actually talked to Mr. Glancey before and we had anticipated some potential amendments, I have a concern that some of the things that need to be worked out, with you as an example, Ms. Kammerdeiner, may not be as forthcoming in a timely way as I would like.

As you recall, about a year ago -- maybe a year and a half ago, I did a bill, a non-utilization tax. And at that time there was a commitment to work with us and hopefully be able to implement that bill. And I'm a little concerned because I don't think that was done yet. We heard some of the same testimony that the ability to implement such a program will be costly and was not within the parameters of the technology at that particular time, but I believe that we've upgraded the technology considerably since then. And I would like to see -- although this is unrelated to some degree to this particular bill -- some movement on that. I'm concerned that if I can't get my colleagues to move this out of committee, that I won't get the level of commitment and the subsequent follow-up to put this in a position that at a minimum will be referred to State Senator Kitchen, as I said earlier.

It's clearly not my intent to ask for a final vote on this bill until I'm sure that on a state level the appropriate enabling legislation can be put in place and I've gotten a commitment from State Senator Kitchen. But I would like to have this particular bill moved to a degree when it can then be referred to her for the appropriate adjustments in Harrisburg. And understanding some of the questions that my colleagues have had, we can do whatever is necessary on the municipal level to make whatever adjustments in the bill to accommodate some of their concerns. So for that reason I'm going to asking my colleagues to move it. They will obviously make a decision as to whether or not to move it out of committee. I'm not a member of this particular committee, so I will not have a vote, but I just wanted to let you know that I will be asking them to move it out of committee with the understanding that I will not in the foreseeable future be attempting to get a vote by the full Council.

MS. KAMMERDEINER: Thank you.

COUNCILWOMAN BLACKWELL: Further questions?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you very much.

Mr. Glancey.

MR. GLANCEY: Thank you again, Madam Chair and members of the committees. I'm going to try to be very brief. I don't have written testimony either. Councilman Clarke and I have discussed many of the things. I'd just would like to spread on the record so that we have that for the committee. Again, as I said, I'll try to be very brief.

One of the major things I'd like to put on the record is that I believe, obviously, that the Board of Revision of Taxes will be very much involved should this become law in the valuation of properties and in the process of trying to figure out what's gentrified and what is not. However, the actual administration of this program, I believe, rests -- would rest truly in the Department of Revenue. And I'm not trying to shuffle it off on my friends sitting next to me. However, I do believe since they administer the Senior Citizens Special Real Estate Tax Special Provisions, that I think it's somewhat similar, and it would probably be more efficient for revenue to administer it.

Secondly, we may have some problem figuring out what a residential lot is if it's not connected to a property. Again, small things that we can work out, I think, you and I. I also believe -- and I know this is in the state statute. There is reference to commercial properties in this particular bill. I think it's commercial or three or less apartments, one of which would have to be a principle residence. I'm not so sure that that would be a good idea in the final passage of this legislation. With Councilman Nutter, we talked about basically what is market value in whole and part. That is a very difficult for us, for any appraiser to figure out, so I think we would have to discuss what you mean by "in whole or in part." And I think we can do that.

The 5 percent presumption is, again, something that I think we're going to have to take the measure of the City and see if 5 percent is reasonable. I understand that came from Pittsburgh's legislation. And although it's in Pennsylvania, it's a completely different City and we don't know what our gentrification percentage is or whether we can figure it out. But we'll work with you on that, Councilman, to try to get anything we can.

Also, at the very end of the bill it looks like there is an appeal from what decision the BRT makes to the Tax Review Board. All of our appeals, any appeals from the BRT now currently go to the Court of Common Pleas. And I'm not so sure that the Tax Review Board would have jurisdiction over the BRT any decision that the BRT make. I have no objection to it if that's the will of Council, but I think that that should be looked at and maybe brought into compliance with the other appeals that folks can take from the BRT, and that generally goes to the Court of Common Pleas.

Most of the other comments that I was going to make have been made either by Councilmembers themselves or by Ms. Kammerdeiner. And as I said, I don't want to waste anybody's time, so therefore, I will end my testimony and be happy to answer any questions you might have.

COUNCILWOMAN BLACKWELL: Thank you very much.

Any questions for Mr. Glancey?

(No response.)

COUNCILWOMAN BLACKWELL: Ms. Kammerdeiner, Nora Lichtash is next, then Lenora Berson, then Ali Kronley and Harvey Petty. And I think that is our witness list.

Thank you for your patience. Please identify yourself and begin your testimony.

MS. LICHTASH. My name is Nora Lichtash. And I work with the Women's Community Revitalization

Project. I come here to speak in support of the spirit of this bill. A lot of the details that people have raised are questions for us, too; but in general, we want to support anything that makes fairer -- gives an opportunity for people to remain in their communities.

I work for an organization that's been in eastern North Philly for about 15 years. And what we hear from people -- we work with both renters and homeowners. And the homeowners we work with, generally around crime and safety issues, around beautification of the neighborhood. And we've been hearing a lot about Neighborhood Transformation Initiative.

Primarily what we hear, we here some good things, but we also hear that people are scared about it. They're scared that their taxes are going to go up and that they won't be able to stay in the neighborhood. They're scared that they're going to be relocated and they won't be able to stay in the neighborhood. They're scared that a lot of demolition is going to happen and there won't be development afterwards. That's primarily what they're feeling.

I guess, really, that's the majority of my testimony. We fell that we're in support of it. Thanks.

COUNCILWOMAN BLACKWELL: Thank you very much.

Any questions for Ms. Lichtash?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you very much.

Lenora Berson.

MS. BERSON: My name is Lenora Berson. I'm the Chairman of the Legislative Committee of the Center City Residents Association on whose behalf I appear.

Let me begin by expressing CCRA's appreciation for the opportunity to appear before the Finance Committee today to express our grave concerns over the City's tax policy. In particular, we wish to express our rage, and I fear it can be best described at rage, at the precipitous and arbitrary rise in residential real estate assessments in Center City. Many assessments were increased over 100 percent this year alone on top of more reasonable assessment increases many received last year.

We know that our outrage is shared by Council which last week voted to express its unanimous belief that the new 2002 assessments be rolled back to 2001 rates. We urge Council not to rest on its laurels with that vote but to actively pursue this rollback. Such action is not without precedent and was successfully pursued by Council under the leadership of John street, now our Mayor, I think in 1981.

Further, CCRA believes that the time has come for a complete overhaul of all City taxes. There is a widespread perception, dangerous in a democracy, that our patchwork of taxes and tax abatements are not only unduly burdensome to homeowners, businesses, and wage earners, but are arbitrary, unfair, and politically motivated. There is no doubt that our Jerry-built tax structure has played a significant role in the downward spiral of the City's overall economy and dwindling population. There are two opportunities for Council and its Finance Committee to address this great need.

The state legislature, which has ultimate taxing authority over the City, is holding a special session to deal with statewide real estate taxes. We urge Council to prepare a plan for the legislature in regard to revamping, modernizing, and professionilzing our current real estate tax assessment process. The archaic and ultimately political and non-representative Board of Revision of Taxes, whose origins go back to colonial times, is no longer up to the job.

As a historical footnote, I would like to point out that Mayor James Tate, 1962 to '71, a former tax assessor and President of City Council decried the board and considered himself a reformer because he tried to abolish it, although he didn't succeed.

Hopefully, a second opportunity to create a new and fair tax structure will exist if the amendment to the City Charter creating a tax Reform Commission is passed at the next general election.

Center City Residents Association has no position on Council Bill No. 020438, which is the subject of this present hearing. Its provisions do not relate to long-term resident owners of Center City who find themselves caught in a real estate bubble that has provided the pretext for vastly boosted tax assessments.

We also do not believe that tax reform should be addressed in a piecemeal fashion, which this bill does. In furtherance of the belief that all our taxes should be part of a unified and thoughtful tax program, CCRA has created a tax committee to educate itself and to formulate specific recommendations which we hope to have the opportunity to present to Council to the hoped-for reform tax commission and, if it's timely, to the state legislature.

We believe the very worthy concern for very low income homeowners of longstanding addressed in the bill before this committee today should be answered in a new, fair overhaul of our taxing instruments and tax legislation. Thank you.

COUNCILWOMAN BLACKWELL: Thank you.

Are there any questions for Ms. Berson?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you, Ms. Berson.

Ali Kronley and Harvey Petty, ACORN.

Is there anyone else here to testify?

Please go to the table and identify yourself. Glad to have you.

For all listening in their chambers, this is our last witness and we ask that you return to Council for a vote. Thank you.

Please identify yourself for the record and begin.

THE WITNESS: Good afternoon to Councilmembers. My name is Maxine Stubbs. I am a member of ACORN, a grass-roots organization of low-income people throughout Philadelphia working to improve our communities.

As a resident of North Philadelphia, I understand the dramatic impact of rising property taxes on our neighborhoods. Last year, my mother who lives at the heart of Strawberry Mansion and has for over 40 years saw her taxes rise about $200. My mother is on a fixed income, along with many, many other residents, longtime residents of Strawberry Mansion and cannot afford such dramatic increases especially as she struggles to maintain her home.

We believe that a real property tax deferral program is critical to saving our neighborhoods, housing stock, and support this ordinance for that reason. Low-income homeowners cannot stay in their homes if taxes increase dramatically. Even the slightest increase is a bit much more many. However, real commitment to current homeowners needs to be more than simple tax deferment.

Right now, thousands of Philadelphia's homes are in danger of falling apart. I know because I live there. Homeowners need real resources to preserve their homes. Preserve their homes, fix leaky roofs, repair plumbing problems, and meet basic structural repairs. Current home repair programs are inadequate. We have members who have been waiting on Basic Systems Repair list for years. Preserving our housing stock and therefore our neighborhoods will require more home repair programs and resources.

ACORN will continue to fight for home repair programs, and we ask Councilmembers to join us in this fight. Thank you very much.

COUNCILWOMAN BLACKWELL: Thank you very much.

Any questions?

(No response.)

COUNCILWOMAN BLACKWELL: Is there anyone else to testify on behalf of this bill?

(No response.)

COUNCILWOMAN BLACKWELL: Thank you very much.

This hearing will be recessed until tomorrow morning at 9:15. Thank you.

(Council recessed at 4 o'clock p.m.)

\- - -

9/18/02 - FINANCE - BILL 020438

C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing proceedings of the Council of the City of Philadelphia of September 18, 2002, were reported fully and accurately by me, and that this is a correct transcript of the same.

RE: COMMITTEE ON FINANCE

____

Lisa C. Bradley, RPR
and Notary Public