PUBLIC HEARING ON BILL 16-872, "TIBETAN REAL PROPERTY TAX EXEMPTION AND RELIEF ACT OF 2006"

Before the
Committee on Finance and Revenue
Council of the District of Columbia

The Honorable Jack Evans, Chairman

October 23, 2006, 1:00 p.m.
Room 412, John A. Wilson Building

Testimony of
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Good afternoon, Chairman Evans, and members of the Committee on Finance and Revenue. I am Sherryl Hobbs Newman, Deputy Chief Financial Officer for the Office of Tax and Revenue ("OTR") of the District of Columbia ("District"). I am pleased to present testimony today on Bill 16-872, the "Tibetan Real Property Tax Exemption and Relief Act of 2006."

The purpose of this bill is to exempt from real property taxes property located at 1825 Jefferson Place, NW (the "Property"). This Property is comprised of the real property and improvements located in Square 139, Lot 30. The Property is a four-story townhouse, part of which, is being used as a library and an art gallery. The remaining portions of the Property contain space for offices, meetings, lectures, meditation, a kitchen, and a rooftop patio terrace.

The Property is owned by the International Campaign for Tibet (the "Campaign"), a charitable institution for Internal Revenue Code sections 501(c)(3) and 509(a)(2) purposes. The Campaign's purposes are to expand and deepen the awareness of peoples and governments of the world as to the culture, history and religion of Tibet; and to focus international attention on the current conditions in Tibet and the social and economic circumstances in the Tibetan exile community.

As I discuss later in the testimony, we have very serious concerns about Bill 16-872. This bill will exempt the Property from real property taxes so long as the Property is owned by the Campaign and continues to offer programs that are open and free to the general public, such as lectures, films, art exhibits, a library of Tibetan works and meeting space for the Tibetan community of the Washington DC Metro area. In addition, Bill 16-872 requires the Campaign to remain an

Internal Revenue Code section 501(c)(3) organization and that the Property be used to further its tax-exempt purposes.

It is our policy to evaluate carefully any proposed or requested exemption or abatement of real property from District taxes to ensure the integrity and even-handedness of the exemption process.

Before the introduction of Bill 16-872, the Campaign had previously requested a real property tax exemption for the Property from OTR. On July 22, 2005, we granted the Campaign a partial real property tax exemption on 29.4% of the Property under D.C. Code §§ 47-1002(6) and (7) beginning on October 1, 2005. Subsection (6) exempts from real property tax "art gallery buildings belonging to and operated by organizations which are not organized or operated for private gain, and are open to the public generally, and for admission to which no charge is made on more than 2 days each week." Subsection (7) exempts from real property tax "library buildings belonging to and operated by organizations which are not organized or operated for private gain and are open to the public generally."

The remaining portions of the Property, however, are taxable because those portions are not being used for purposes of public charity principally in the District of Columbia, as required by D.C. Code § 47-1002(8). The D.C. Court of Appeals, in the case of District of Columbia v. Cato Institute, 829 A.2d 237, (D.C. 2003), has held that only a building operated by a charitable institution and used for purposes of charity which principally benefits the public (the residents) within the District may qualify for an exemption under D.C. § 47-1002(8). The residents of the District must be principally impacted by the charitable institution.

We strongly recommend that you do not pass Bill 16-872 because the Campaign's purposes do not benefit District residents. The purposes of the Campaign are not for purposes of public charity principally in the District of Columbia. As mentioned previously, the Campaign's purposes are to expand and deepen the awareness of peoples and governments of the world as to the culture, history and religion of Tibet; and to focus international attention on the current conditions in Tibet and the social and economic circumstances in the Tibetan exile community. These purposes do not principally benefit the residents of the District of Columbia. The principal geographic target and distribution of an institution's charitable activities located in a given building must be for the residents of the District under D.C. Code § 47-1002(8).

The standard in D.C. Code § 47-1002(8) is different than the tax exemption created under federal law. Internal Revenue Code section 501(c)(3) only has a charity purpose requirement without stating where or whom the benefits should target. The principal geographic target and distribution of an institution's charitable activities located in a given building must be the District under D.C. Code § 47-1002(8). For D.C. Code § 47-1002(8) purposes, it is irrelevant whether an entity qualifies as a section 501(c)(3) organization under the Internal Revenue Code.

Bill 16-872 conditions the tax exemption on activities that are not principally designed to benefit District residents, but rather on activities that are designed to illuminate the plight of Tibetan people in a different country. This is contrary to the standards set forth in D.C. Code § 47-1002(8), which requires that charitable activities principally benefit District residents within the District.

The Campaign's tax-exempt purpose is international in scope and does not seek to bestow a principal benefit to the District of Columbia or its residents. OTR has recently denied exemption applications for over 20 similarly- situated properties whose charitable purpose did not principally benefit District residents because we determined that their purposes were national or international in scope. There is no basis for the District to treat the Campaign's property more favorably than those 20 plus properties.

A foreseeable consequence of Bill 16-872 is that it will cause District taxpayers to continue to question the administration of real property taxes in the District. The bill will continue to perpetuate a sense of uneven treatment among District real property owners and instigate controversy with OTR. District real property owners are extremely sensitive to this issue because over one-third of the real property value in the District is already exempt from real property taxes. This amount comprises approximately 57% of the total land area of the District.

After reviewing Bill 16-872, we believe that this exemption is contrary to the prescribed standards set forth in D.C. Code § 47-1002(8) governing real property tax exemptions. Bill 16-872 also fosters an inequitable distribution of real property taxes among real property owners as a result of special exemptions granted by the D.C. Council. It exacerbates the challenging duty placed upon OTR to fairly administer the real property tax laws, when legislation such as Bill 16-872 creates significant inconsistencies among similarly-situated real property owners. Equal treatment within a class of taxpayers is fundamental to an equitable administration of tax laws. Bill 16-872 also undermines the determinations made under the authority of the CFO to administer real property taxation equitably. We therefore emphatically recommend that this bill not be enacted.

Fiscal Impact of Bill 16-872

We estimate that the proposed legislation would result in reduced real property tax revenue of approximately $20,000 annually. Minimal operating costs are expected.

Thank you, Chairman Evans, for the opportunity to comment on this bill. I would be happy to answer any questions you or other Councilmembers might have at this time.