



CITY OF PHILADELPHIA
CITY COUNCIL
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COUNCILMAN - 5TH DISTRICT

To: All Members of Council

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From: Council President Darrell L. Clarke *DL Clarke*

I am writing to address concerns expressed by some regarding the Construction Impact Tax (CIT) and the Putting Philadelphians First affordable housing plan.

To reiterate, the 1% tax would only apply to abatement-eligible, taxable construction. In other words, you only pay the CIT if you are deemed eligible by the City for the 10-year, 100% tax abatement. The construction tax paid to the City would amount to half of one year's abatement – effectively reducing the City subsidy to a 9.5-year abatement. No other major city offers anywhere near as generous a development subsidy, so Philadelphia would remain an attractive and competitive place to build.

There is no reason to believe that the CIT will have a significant negative impact on the pace of development in Philadelphia. After more than a year of working toward compromise with the Department of Planning and Development, community development groups, and affordable housing advocates, we have not found a more appropriate mechanism to raise significant new funds – approximately \$22 million annually – for the Housing Trust Fund (HTF). And we can think of no more equitable way of raising new funds into the HTF than through a small tax on developers and builders that have profited most from the current construction boom.

Mayor Kenney's office recently circulated a counter proposal that they say would raise \$19 million in FY19 but just \$7.5 million to \$9.1 million annually over the following four years. This commitment to less than half of what the CIT would raise for the HTF over the next five years is inadequate.

If the goal is to address an affordable housing shortage that was caused by a severe drop-off in federal funding – which will not be restored in the near future, if at all – then we must identify new sustainable, dedicated revenue sources for HTF. If we scale back the abatement, commit most City-side revenue to the HTF, and do nothing else, then what is the plan for other City services that we have previously been unable to adequately fund because of our commitment to the School District and foregone revenue from the 10-year, 100-percent abatement – such as

street cleaning and maintenance, infrastructure investments, and job training among other anti-poverty, anti-violence initiatives?

Mayor Kenney's counter-proposal cites four objections to the CIT, which I will address in order:

Difficulty administering a “new, untested revenue source”: This tax would only apply to properties that are deemed eligible for the abatement. It should not take significantly more effort to apply the CIT than to offer the abatement subsidy. In fact, that very claim – that it is too cost- or effort-prohibitive to apply and collect a tax than it is to decline to collect a tax – raises a great deal more questions about how this Administration prioritizes its essential functions. If the Administration truly prefers offering generous subsidies via the abatement over collecting taxes owed to the City, then they should forthrightly disclose that information to taxpayers.

Further, it was just weeks ago that the PA Supreme Court ruled on the constitutionality of the controversial Philadelphia Beverage Tax (PBT) – a comparatively more complicated levy on distribution rather than sale. The annual cost to administer the PBT is \$1.8 million, raising questions about the Administration's claim that the cost to administer the CIT – which would occur during the existing appraisal/abatement process – would be \$3 million to \$4 million annually. Unless the Administration plans to significantly scale up its hiring in response to the CIT – which there is no valid reason to do – then we not only are skeptical of the \$4 million cost estimate, we believe it to be a fiction.

Auditing will be required because “there is incentive for taxpayers to underreport”: Again, the CIT will apply only to abatement-eligible properties, and will amount to one half of one year's abatement. The CIT is miniscule compared with the abatement subsidy. Not only is it already the Administration's duty to accurately assess such properties, any “underreporting” will also result in a smaller subsidy from the City.

Builders will skip the permitting process to avoid CIT: We expect the Department of Licenses & Inspections to perform its duties by enforcing fines and penalties against those who build without appropriate permits. If L&I is incapable of performing these basic functions, then Council will do our due diligence and investigate L&I operations through the public hearings process.

In addition, the CIT makes the abatement no less attractive an incentive to build. Any builder who attempts to operate outside of the permitting process is not only at risk of severe penalties, they have no chance of receiving the abatement subsidy.

Exemptions for non-profit/Keystone Opportunity Zone development: It is not clear what the Administration's objection is here. Our CIT revenue calculations already assume that an average of 30% of new construction will be tax-exempt. Based on the 10-year historical average, and exempting non-taxable construction, we arrive at \$22 million in annual new revenues for the HTF. The Philly 1st plan would raise an additional \$112 million for the HTF over the next five years, compared with the Administration's plan, which also assumes currently exempt properties will remain exempt, and would divert \$53 million out of the General Fund over the next five years.

It is important to note that the 10-year average on which we base CIT projections is weighted down by the Great Recession years. If we instead based projections on just the past three years of strong growth, the CIT would be on track to raise \$29.5 million annually. A dedicated revenue source tied directly to the HTF would also provide some protection from the budget “raiding” that can occur during economic downturns. This insulation from politics is another reason why affordable housing and community development advocates support the Philly 1st plan instead of the Administration’s plan to spend more General Fund dollars.

Supporting data and documents are attached for your convenience. I look forward to continuing our efforts to make Philadelphia a stronger, more equitable City.

DLC/dmc
Enclosures