

FINAL

AMENDED
October 16, 2017

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2017, Legislative Day No. 36

Bill No. 77-17

Introduced by Mr. Grasso, Chairman
(by request of the County Executive)

By the County Council, September 5, 2017

Introduced and first read on September 5, 2017
Public Hearing set for and held on October 16, 2017
Public Hearing on AMENDED bill set for and held on November 6, 2017
Bill Expires December 9, 2017

By Order: JoAnne Gray, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Payment in Lieu of Taxes – First Amendment to
2 Agreement – Housing Commission of Anne Arundel County

3
4 FOR the purpose of amending a payment in lieu of taxes agreement for exemptions from
5 County real property taxes for certain properties owned by the Housing Commission
6 of Anne Arundel County; authorizing the County Executive to enter into a certain
7 first amendment to a payment in lieu of taxes agreement with the Housing
8 Commission of Anne Arundel County; and providing for the time and terms under
9 which the payment in lieu of taxes and tax exemptions will take effect.

10
11 WHEREAS, the Housing Commission of Anne Arundel County (the “Housing
12 Commission”) and the County are parties to a Payment in Lieu of Taxes
13 Agreement dated October 12, 2007 (“PILOT Agreement”);

14
15 WHEREAS, the County Council recognizes the need for quality low income
16 housing in the County for households of limited income continues;

17
18 WHEREAS, an amendment to the PILOT Agreement is required to correct a legal
19 citation in the PILOT Agreement, and to address a change of ownership and
20 control structure for certain Housing Commission properties;

21
22 WHEREAS, based upon a change in funding by the United States Department of
23 Housing and Urban Development, the Housing Commission intends to change the
24 ownership and control structure for certain affordable housing properties it
25 operates to allow for re-financing of properties with private ownership in which

EXPLANATION: Underlining indicates amendments to bill.
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 the Housing Commission has an ownership or control interest and under which
2 the properties will continue to benefit a designated affordable housing market
3 client base, established by income guidelines with a fixed number of units for a
4 fixed period of time; and

5
6 WHEREAS, exemptions from County real property taxes for certain properties
7 owned by the Housing Commission that provide rental housing is authorized by
8 the Tax-Property Article, § 7-215 and the Housing and Community Development
9 Article, ~~§ 12-104 (b)(2)(i)~~ § 12-104(c)(2)(i), of the State Code, provided that the
10 County and the property owner enter into an agreement for the payment of a
11 negotiated amount in lieu of the County real property tax;

12
13 WHEREAS, exemptions from County real property taxes for certain properties
14 owned or operated by the Housing Commission is authorized by § 7-503 (a)(2)(ii)
15 of the Tax-Property Article of the State Code, if the real property or
16 improvements constructed or maintained on such real property are owned by a
17 limited partnership for which the Commission is the managing general partner, so
18 long as the limited partnership is engaged in the operation, construction, or
19 management of a qualified low income housing project as defined in the Internal
20 Revenue Code, and provided that the County and the property owner enter into an
21 agreement for the payment of a negotiated amount in lieu of the County real
22 property tax; and

23
24 WHEREAS, pursuant to § 6-102 of the Tax-Property Article of the State Code, a
25 leasehold of less than 99 years or other limited interest in property is not subject
26 to a property tax; now, therefore,

27
28 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
29 *Maryland,* That the County Executive is hereby authorized to enter into the First
30 Amendment to PILOT Agreement between Anne Arundel County and the Housing
31 Commission, as the owner of the properties, for a payment in lieu of real property taxes
32 for those properties, a copy of the First Amendment to PILOT Agreement between Anne
33 Arundel County and the Housing Commission being appended to this Ordinance as
34 ~~Exhibit A~~ Exhibit A-1 and incorporated by reference as if fully set forth in this
35 Ordinance.

36
37 SECTION 2. *And be it further enacted,* that all other terms of the PILOT Agreement
38 shall remain in full force and effect except as amended by the First Amendment to
39 PILOT Agreement between Anne Arundel County and the Housing Commission.

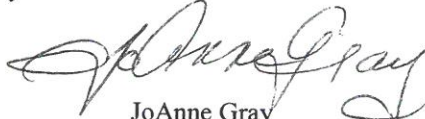
40
41 SECTION 3. *And be it further enacted,* That these exemptions and payment in lieu of
42 taxes may not take effect until the requirements of Tax-Property Article, § 7-503, of the
43 State Code are met, and shall take effect in accordance with the terms of the First
44 Amendment to PILOT Agreement between Anne Arundel County and the Housing
45 Commission.

46
47 SECTION 4. *And be it further enacted,* That this Ordinance shall take effect 45 days
48 from the date it becomes law.

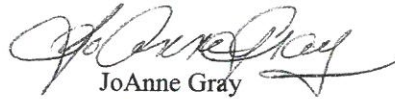
AMENDMENTS ADOPTED: October 16, 2017

READ AND PASSED this 6th day of November, 2017

By Order:


JoAnne Gray
Administrative Officer

PRESENTED to the County Executive for his approval this 7th day of November, 2017


JoAnne Gray
Administrative Officer

APPROVED AND ENACTED this 9th day of November, 2017


Steven R. Schuh
County Executive

EFFECTIVE DATE: December 24, 2017

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
77-17. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.


JoAnne Gray
Administrative Officer

**FIRST AMENDMENT TO PILOT AGREEMENT BETWEEN
ANNE ARUNDEL COUNTY, MARYLAND, AND
THE HOUSING COMMISSION OF ANNE ARUNDEL COUNTY**

This First Amendment to PILOT Agreement Between Anne Arundel County, Maryland and The Housing Commission of Anne Arundel County ("Amendment") is made this ____ day of _____ 2017, by and between **THE HOUSING COMMISSION OF ANNE ARUNDEL COUNTY** (the "Commission") and **ANNE ARUNDEL COUNTY, MARYLAND** (the "County"), a body corporate and politic chartered in accordance with the laws of the State of Maryland.

WITNESSETH:

WHEREAS, The Commission and the County entered into a certain Agreement dated October 12, 2007, with respect to the development and administration by the Commission of low-rent housing projects within the County (the "PILOT Agreement");

WHEREAS, The need for low-income housing within the County continues;

WHEREAS, The PILOT Agreement states that real property owned by the Commission is exempt from State and County property taxes pursuant to § 7-210 of the Tax-Property Article (the "Tax-Property Article") and § 12-104(b)(2)(i) of the Housing and Community Development Article of the Annotated Code of Maryland;

WHEREAS, The reference to § 7-210 of the Tax-Property Article in the PILOT Agreement is incorrect and should be to § 7-215 of the Tax-Property Article, which is specific to housing authorities, like the Commission, and the reference to § 12-104(b)(2)(i) of the Housing and Community Development Article should be updated to § 12-104(c)(2)(i) of the Housing and Community Development Article;

WHEREAS, Based upon a change in funding by the United States Department of Housing and Urban Development, public housing authorities have increasingly changed the ownership and control structure for the affordable housing properties they operate, and, while the properties must still benefit a designated affordable housing market client base established by income guidelines and involve a fixed number of units for a fixed period of time, the properties are increasingly re-financed to allow private ownership in which the public housing authority has an ownership or control interest; and

WHEREAS, the parties desire to amend the PILOT Agreement to address the change in ownership structure of properties fulfilling the need for low-income housing and to allow for a payment in lieu of taxes for the properties affected by this change.

Bill No. 77-17
Exhibit A-1
Amendment No. 1

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions hereof, and subject to § 12-104 of the Housing and Community Development Article, the parties hereto hereby agree as follows:

1. All terms of the original PILOT Agreement dated October 12, 2007, shall remain in full force and effect except as amended herein.
2. The controlling authority for the PILOT Agreement and this First Amendment to the PILOT Agreement is corrected to reference § 7-215 of the Tax-Property Article, rather than § 7-210; and the reference to § 12-104(b)(2)(i) of the Housing and Community Development Article is updated to § 12-104(c)(2)(i).
3. Pursuant to § 7-503 (a)(2)(ii)1A of the Tax-Property Article, the PILOT Agreement and this First Amendment to the PILOT Agreement shall apply to all real property or improvements of which the Commission is the fee simple owner, and any improvements constructed or maintained on such real property owned by a limited partnership for which the Commission is the managing general partner, so long as the limited partnership is engaged in the operation, construction, or management of a qualified low-income housing project, as defined in the Internal Revenue Code.
4. Pursuant to § 6-102 of the Tax-Property Article, the PILOT Agreement and this Amended Agreement shall also apply to real property that is or becomes subject to a leasehold interest of less than 99 years by an entity other than the Commission and to any improvements owned by entities other than the Commission that are constructed or maintained on such real property so long as the property is a qualified low income housing project, as defined in the Internal Revenue Code, and the Commission is engaged in the operation, construction, or management of the real property and improvements.

IN WITNESS WHEREOF, the parties have executed this Amendment to Agreement by causing the same to be signed on the day and year first written above.

ANNE ARUNDEL COUNTY, MARYLAND

By: _____
Mark D. Hartzell
Chief Administrative Officer

THE HOUSING COMMISSION OF ANNE ARUNDEL COUNTY

By: _____
Clifton C. Martin
Chief Executive Officer

**Bill No. 77-17
Exhibit A-1
Amendment No. 1**

APPROVED FOR FORM AND LEGAL SUFFICIENCY
ANNE ARUNDEL COUNTY, MARYLAND

By: _____
Nancy McCutchan Duden, County Attorney

_____ Date