



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Gregory J. Swain, County Attorney /s/

Via: Kelly Phillips Kenney, Supervising County Attorney /s/

Date: June 21, 2022

Subject: Bill No. 69-22 – Payment in lieu of taxes (PILOT) – Willows at Forest Drive

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 69-22. The summary is intended to explain the purposes and legal effects of the bill.

Background. PILOT Agreements are authorized by State law for certain types of properties, including but not limited to, housing for persons of limited income, subsidized housing, housing commission or housing authority properties, and housing for senior citizens. Md. Code Ann., Tax-Prop., §§ 7-501, *et seq.* The State law allows a county to exempt those specific properties from county real property taxes if certain conditions are met, including entry into an agreement for a negotiated amount in lieu of property taxes. The agreement must be entered with the owner of the property and the governing body of the county, which in Anne Arundel County, requires approval by both the County Council and the County Executive. Once a PILOT is in place and the conditions are met, the owner pays the negotiated amount, rather than any County real property taxes.

Purpose. The primary purpose of this Bill is to authorize the County Executive to enter into a Payment in Lieu of Taxes (“PILOT”) Agreement with Forest Drive LIHTC, LLC, which will be developing Willows at Forest Drive, a 58-unit apartment complex to serve households of various levels of limited income, to be located at 1701 Forest Drive, one (1) unnumbered parcel on Forest Drive, and two (2) unnumbered parcels on East Juliana Circle, Annapolis, Maryland 21401 (“Property”). The Property is in the City of Annapolis, and the PILOT only applies to County taxes.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

Bill provisions.

Section 1 of the Ordinance authorizes an exemption from County real property taxes for Willows at Forest Drive in accordance with § 7-506.1 of the Tax-Property Article of the State Code, which provides, among other things, that real property may be exempt from county property tax if:

(i) the real property is owned by a person engaged in constructing or operating housing structures or projects; and

(ii) the real property is used for a housing structure or project that is constructed or substantially rehabilitated under a federal, state or local government program that:

(1) funds construction, or insures its financing in whole or in part, or

(2) provides interest subsidy, rent subsidy or rent supplements; and

(iii) the owner and the governing body of the county enter into an agreement for the payment of a negotiated sum in lieu of applicable county property taxes on the Property; and

(iv) the owner:

(1) agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the government programs and to renew any annual contributions contract or other agreement for rental subsidy or supplement; or

(2) enters into an agreement with the County to allow the property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least five (5) years.

Section 2 authorizes the County Executive to enter into the PILOT Agreement, which is attached to the Ordinance as Exhibit A. The PILOT Agreement identifies the property and in paragraph 1, the number of units that will be made available to various income levels. The dwelling units have not yet been constructed. As set forth in the Agreement, the payment in lieu of taxes shall begin on the later of July 1, 2024, or after the Property is acquired and the dwelling units are constructed and in compliance with the conditions of paragraph 1 of the PILOT. The PILOT shall be in place for 40 years, unless any of the events listed in paragraph 3 occur. Under paragraph 5 of the PILOT Agreement, the payment in lieu of taxes for the first Fiscal Year shall be \$11,600. For the remaining fiscal years, the payment in lieu of taxes shall be the previous year's amount, plus 4% per annum.

Section 3 provides that the exemptions and PILOT may not take effect until the requirements of § 7-506.1 of the Tax-Property Article of the State Code are met.

Section 4 provides that the Ordinance shall take effect 45 days from the date it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill. Thank you very much.

cc: Honorable Steuart Pittman, County Executive
Matt Power, Chief Administrative Officer
Lori Rhodes, Deputy Chief Administrative Officer for Land Use
Pamela Jordan, Deputy Chief Administrative Officer of Health and Human Services
Dr. Kai Boggess-de Bruin, PhD, Chief of Staff
Peter Baron, Legislative Liaison
Erin Shearman Karpewicz, Arundel Community Development Services
Karin McQuade, Controller
Chris Trumbauer, Budget Officer