

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED TAXATION – PAYMENTS IN LIEU OF TAXES – AFFORDABLE BILL 2-25: HOUSING – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 2-25 could have a negative impact on racial equity and social justice (RESJ) in the County. Bill 2-25 would likely benefit landlords and residents who can afford market-rate housing more than residents in need of affordable housing. Therefore, OLO anticipates this Bill could widen disparities in housing by race and ethnicity. Further, the forgone property tax revenue from this Bill could undermine the County's ability to provide future public goods and services, which could particularly harm BIPOC community members. OLO offers one policy option for Council consideration.

PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other people of color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.¹ This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.²

PURPOSE OF EXPEDITED BILL 2-25

The County's Payment in Lieu of Taxes (PILOT) program aims "to support the construction and preservation of affordable multifamily rental housing" in the County.³ A PILOT lowers or completely abates County real property taxes on affordable rental housing projects for a set period of time. The County offers three PILOT options. Specifically, the By Right PILOT option abates all County real property taxes for at least 15 years if:⁴

- A rental property is owned or controlled by a non-profit; and
- At least 50 percent of the units in the property are rented to households making up to 60 percent of the area median income (AMI).

The purpose of Bill 2-25 is to expand the By Right PILOT option to provide tax abatements to commercial buildings that are converted to residential buildings primarily comprised of market-rate units. A property owner could qualify for a By Right PILOT if:⁵

- The commercial building has at least a 50 percent vacancy rate;
- The conversion of the property complies with certain zoning requirements; and
- At least 15 percent of the units in the property are affordable to households making up to 60 percent of the AMI for 25 years.

Property owners who qualify for this PILOT program would be exempt from 100 percent of County real property taxes for 25 years.⁶

RESJ Impact Statement

Expedited Bill 2-25

The Council introduced Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments, on February 4, 2025. The Bill was introduced along with Zoning Text Amendments (ZTA) 25-02 and 25-03 and Subdivision Regulation Amendment (SRA) 25-01 as part of the “More Housing N.O.W. (New Options for Workers)” package.

In October 2024, OLO previously published a RESJIS for Bill 18-24, Housing Policy – Standards and Procedures – Amendments.⁷ Please refer to this RESJIS for background on housing affordability and racial equity.

ANTICIPATED RESJ IMPACTS

Affordable housing development. As described in the RESJIS for Bill 18-24, historical and contemporary racial inequities drive increased demand in affordable housing among Black and Latinx families in the County.⁸ As shown in Table B (Appendix), the median incomes of Black and Latinx households are each more than \$30,000 less than the median income of all households in the County. Further, Black community members are largely overrepresented among families who live in properties owned by the County’s largest affordable housing provider, the Housing Opportunities Commission (HOC).⁹

To qualify for the By Right PILOT, Bill 2-25 requires property owners to comply with certain zoning requirements. These zoning requirements were recently introduced with ZTA 25-03. If enacted, ZTA 25-03 would create an expedited approval process for property owners to convert vacant commercial buildings into residential buildings.¹⁰ Commercial-to-residential conversion projects enabled by ZTA 25-03 would be subject to the County’s Moderately Priced Dwelling Units (MPDUs) requirements. MPDUs are housing units that are affordable to renters and first-time home buyers making up to 70 percent of the AMI.¹¹ In housing developments with more than 20 units, between 12.5 to 15 percent of the units must be MPDUs.¹² The percentage of required MPDUs depends on where the housing development is located.

In terms of affordable housing, ZTA 25-03 and Bill 2-25 create two options for property owners who want to convert vacant commercial buildings into residential buildings:

- **Convert without a By Right PILOT:** At least 12.5 percent of the units in the building must be affordable to households making up to 70 percent of the AMI.
- **Convert with a By Right PILOT:** At least 15 percent of the units in the building must be affordable to households making up to 60 percent of the AMI.

Thus, the By Right PILOT created by Bill 2-25 would encourage property owners to provide a slightly larger percentage of MPDUs that are slightly more affordable. Of note, researchers have recognized that office conversion projects are “economically challenging and often not possible without significant public funding.”¹³ Thus, the By Right PILOT could also incentivize the development of housing and accompanying MPDUs that would otherwise not occur.

Additional impacts by race and ethnicity. To consider the anticipated impact of Bill 2-25 on RESJ in the County, OLO recommends further consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

Several stakeholders could benefit from the By Right PILOT – the 25-year property tax exemption – created through Bill 2-25:

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- **Landlords who rent out units in converted buildings** would benefit from decreased operating costs and increased profits from owing no property taxes. Table A (Appendix) shows data on business ownership in the local real estate and rental and leasing sector by race and ethnicity. The data suggests White people are largely overrepresented among landlords and other real estate business owners in the County. Meanwhile, Black, Latinx, and to a lesser extent, Asian people, are underrepresented.
- **Community members who rent units in converted buildings** could also benefit from decreased rents charged by landlords. This would likely benefit community members who rent market rate units. Landlords are unlikely to lower rents further than the required guidelines for community members living in affordable units. According to Zillow, the average rent in the County is \$2,273.¹⁴ Considering the cost burden threshold (spending more than 30 percent of income on housing costs), this rent would be affordable to households making at least \$90,920 per year. Table B (Appendix) shows data on median household income in the County by race and ethnicity. The data shows the median income of Black households is lower than this threshold, while the median income of Latinx households is slightly above this threshold. Conversely, the median incomes of White and Asian households is well above this threshold. Thus, White and Asian households in the County are better positioned to afford market rate units.
- **Homeowners who purchase units in converted buildings** would benefit from decreased housing costs from owing no property taxes. This would benefit homeowners of affordable and market rate units. Table C (Appendix) shows homeownership rates in the County by race and ethnicity. The data suggests White and Asian community members in the County are more likely to be homeowners. Meanwhile, Black and Latinx community members are less likely to be homeowners.

Conversely, **County constituents at large** would be burdened by 25 years of forgone property tax revenue from the converted buildings. Property taxes are the largest source of tax revenue for the County government.¹⁵ The forgone revenue would undermine the County's ability to provide public goods and services, especially with the increased demand from community members who are moving into the converted buildings. The resource limitations could particularly harm BIPOC community members, especially as they continue to become a larger part of the population.

Conclusion. OLO anticipates Bill 2-25 could have a negative impact on RESJ in the County. Bill 2-25 could incentivize the development of housing and MPDUs that may not otherwise occur without public funding. However, OLO anticipates this incentive will primarily benefit landlords and residents who can afford market-rate housing rather than residents in need of affordable housing. Given the demographics of households who can afford market-rate housing units compared to affordable units, OLO anticipates this Bill could widen housing disparities by race and ethnicity. Further, the forgone property tax revenue from tax abatements that primarily subsidize the development of market rate units could undermine the County's ability to provide future public goods and services. This could particularly harm BIPOC community members.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹⁶ OLO anticipates Expedited Bill 2-25 could have a negative impact on RESJ in the County. Should the Council seek to improve the RESJ impact of this Bill, OLO offers one policy option for Council consideration:

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- **Consider financial incentives for commercial-to-residential conversion projects that increase the yield of affordable housing units.** Tax abatements that increase the supply of market-rate units primarily benefit White-owned businesses and higher income White and Asian community members. Encouraging the development of more affordable housing that benefits lower-income Black and Latinx community members increasingly helps to offset this impact and narrow disparities in housing by race and ethnicity. Communities throughout the U.S. are experimenting with different financial incentives that can provide more affordable housing through office-to-residential conversions.¹⁷ For instance, incentive programs in Pittsburgh and Chicago are aiming for 20 to 30 percent of units in publicly supported conversion projects to be affordable.¹⁸ The Council could consider programs such as these or amendments to the proposed By Right PILOT that would provide a higher percentage of affordable housing units.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

APPENDIX

Table A: Percent of Real Estate and Rental and Leasing Business Owners by Race and Ethnicity, Montgomery County

Race and ethnicity ¹⁹	Real Estate and Rental and Leasing Business Owners (NAICS 53) ^{20,21}	Population
Asian	12.4	15.3
Black	5.1	18.5
White	82.3	46.6
Latinx	3.9	20.0

Source: 2022 American Business Survey ([Table AB2200CSA01](#)) and 2022 American Community Survey 5-Year Estimates ([Table DP05](#)), Census Bureau.

Table B: Median Household Income by Race and Ethnicity, Montgomery County

Race and ethnicity	Median Household Income
County	\$125,371
Asian	\$143,911
Black	\$86,359
White	\$160,756
Latinx	\$92,050

Source: 2023 American Community Survey 1-Year Estimates ([Table S0201](#)), Census Bureau.

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Table C: Homeownership Rate by Race and Ethnicity, Montgomery County

Race and ethnicity	Homeownership Rate
County	64.4
Asian	75.1
Black	43.9
White	74.4
Latinx	48.8

Source: 2023 American Community Survey 1-Year Estimates ([Table S0201](#)), Census Bureau.

¹ Definition of racial equity and social justice adopted from Marlysa Gamblin et al., “[Applying Racial Equity to U.S. Federal Nutrition Programs](#),” Bread for the World and [Racial Equity Tools](#).

² Ibid.

³ [Payment in Lieu of Taxes \(PILOT\)](#), Department of Housing and Community Affairs.

⁴ Ibid.

⁵ [Introduction Staff Report for Expedited Bill 2-25](#), Montgomery County Council, introduced February 4, 2025.

⁶ Ibid.

⁷ [RESJIS for Bill 18-24](#), Office of Legislative Oversight, October 3, 2024.

⁸ Ibid.

⁹ Ibid.

¹⁰ [Introduction Staff Report for Zoning Text Amendment 25-03](#), Montgomery County Council, Introduced February 4, 2025.

¹¹ [MPDU Program – General](#), Department of Housing and Community Affairs.

¹² [MPDU Developers](#), Department of Housing and Community Affairs.

¹³ Tracey Hadden Loh et al., “[Myths about converting offices into housing—and what can really revitalize downtowns](#),” Brookings, April 27, 2023.

¹⁴ [Montgomery County, MD Housing Market](#), Zillow.

¹⁵ [FY25 Approved Taxes](#), Revenues, Montgomery County Operating Budget.

¹⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

¹⁷ Michela Zonta et. al, “[Converting Vacant Office Space Into Housing](#),” Center for American Progress, July 30, 2024.

¹⁸ Ibid and [LaSalle Corridor Revitalization](#), City of Chicago.

¹⁹ Estimates for Native American and Pacific Islander community members were not available for data points in this RESJIS.

²⁰ The Real Estate and Rental and Leasing Sector includes establishments that rent, lease, or otherwise allow the use of their own real estate or other assets by others. This sector also includes establishments primarily engaged in managing real estate for others, selling, renting, and/or buying real estate for others, and appraising real estate.

²¹ Margins of error for these data points may be large.