

**TESTIMONY OF ED LAZERE, EXECUTIVE DIRECTOR
At the Public Hearing on
Bill 21-325, Land Disposition Transparency Act of 2015
District of Columbia Committee of the Whole
October 8, 2015**

Chairman Mendelson and members of the Committee, thank you for the opportunity to testify today. My name is Ed Lazere, and I am the Executive Director of the DC Fiscal Policy Institute. DCFPI is a non-profit organization that promotes budget and policy choices to expand economic opportunity for DC residents and reduce income inequality in the District of Columbia.

I am here to testify in support of the Land Disposition Transparency Act. When the District disposes of public land, it is an important opportunity to shape the development of a community and the city. Given its importance the District should have a land disposition process that is both transparent and efficient.

The District often sets conditions over land it sells, which means they are not purely market transactions. As a result, the land disposition process needs provisions to make clear how a sales price was determined. This includes understanding both the market value of the land and the cost of any requirements placed on the developer, such as affordable housing. A transparent process helps ensure that the District gets the best price possible for the land. Transparency also can help ensure that the land disposition process moves in a smooth and timely way.

For these reasons, we support provisions of the Land Disposition Transparency Act that require transparency over land valuations and the costs of any requirements set by the District over the use of the land. To be clear, we think it is especially important given the legislation adopted in 2014 to require affordable housing set-asides in public land that is disposed of for residential development. Those set-asides have substantial costs and thus can result in sales prices that are well below full market value. If the District uses its public land assets to create affordable housing, as we think it should, then all stakeholders should understand how that affects public land sales prices.

We have some observations and suggestions for strengthening the legislation to meet these goals, mostly around the issue of how land market values are determined. The bill notes that fair market value should be based on the “highest and best use as contemplated by the developer,” but also in ways that result in the “highest land value.” We believe that these using both standards in the bill may be confusing and even in conflict. The bill seems to suggest that a developer’s plans always will result in the highest land value, but that may not always be the case. We believe clarity is needed.

Beyond that, the DC Fiscal Policy Institute believes that neither of these standards is ideal and that fair market values should be based on a different standard. We recommend that the fair market value of the land should be based on the use of the land as contemplated by the District in its

request for offers. This is because the District's desired use of the land – the highest and best use from the city's perspective -- often is not something that results in the highest and best use from a *market* perspective.

Consider, for example, the Reeves Center, which the District contemplated disposing of in 2014 but ultimately did not. The potential developer, Akridge, appeared interested in developing the parcel as a residential building. Yet some DC government officials and community stakeholders wanted the site to include office space to create more daytime traffic. And other community stakeholders wanted to make sure that the redeveloped land maintain space for the popular farmers' market. If the District chooses to dispose of the Reeves Center in the future, it is possible that the District may require the developer to keep some open space and to include at least some office space.

Those conditions would affect what a developer would be willing to pay for the land, because it would affect the parcel's income-generating potential. In this case, it would not make sense for the land valuation to be based on maximizing the lot for residential development – which could be the developer's contemplated use and the use that would result in the highest land value. Instead, any appraisal of the land should be based on market value for the land given the open space and office space requirements.

The DC Fiscal Policy Institute thus recommends that the Land Disposition Transparency Act require an appraisal based on the proposed use of the land as dictated by the District. The bill could require the District to conduct an additional appraisal based on the highest and best use of the land, or it could require the executive branch to simply identify when the proposed use of the land would result in a sales price that is less than the price the city would expect if it placed no conditions on the land's development.

In addition, while the Land Disposition Transparency Act requires an explanation of the difference between the fair market value and the ultimate sales price, the bill does not require an explanation of the assumptions and methods behind the appraisal. Given that land appraisals are in many ways an art more than a science -- built on numerous assumptions -- understanding the factors that went into an appraisal are important. DCFPI recommends that this bill be amended to require the District to provide a written explanation of the key factors and assumptions built into the appraisal, such as the capitalization rate and assumed construction costs per square foot.

We believe that this standard is the best way to assess whether the District has negotiated a good sales price for any land that it disposes of. Understanding the market value of the land based on the District's intended use, and understanding the costs of any additional requirements such as affordable housing, would allow the public and policymakers to understand how requirements placed on land development affect the sales price. This also would help ensure that the negotiated sales price is the best possible price for the District.

Thank you again for the opportunity to testify. I am happy to answer any questions.