GO Committee #1
April 24, 2023
Worksession

M E M O R A N D U M

April 20, 2023

TO: Government Operations and Fiscal Policy Committee

FROM: Ludeen McCartney-Green, Legislative Attorney
Glenn Orlin, Senior Analyst

SUBJECT: **Worksession:** Bill 17-23, Taxation – Recordation Tax Rates – Amendments

Bill 17-23, Taxation – Recordation Tax Rates – Amendments, sponsored by Lead Sponsor Councilmember Mink, and co-sponsor Councilmember Jawando was introduced on March 21, 2023. A public hearing was held on April 11 at 1:30 p.m., and four people testified about the Bill. A Government Operations and Fiscal Policy (GO) Committee worksession is tentatively scheduled for April 24, 2023.

Bill 17-23 would increase the rate of the recordation tax levied under state law for certain transactions involving the transfer of property and allocate the revenue received from the recordation tax to capital improvements for schools and to the Montgomery Housing Initiative Fund (HIF).

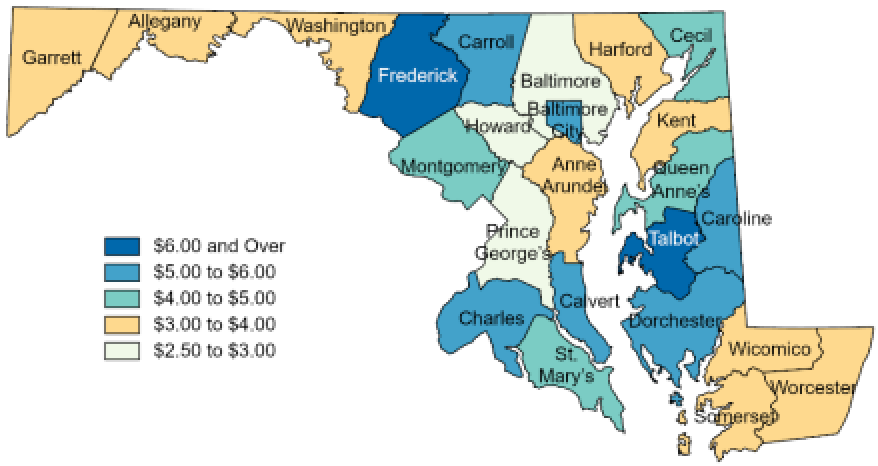
BACKGROUND

Recordation tax is levied under Md. Tax- Property Code §§12-101 to 12-118, as amended. The tax applies to the principal amount of the debt secured by a mortgage or deed of trust (when a house or building is being purchased), or when a mortgage is refinanced, the tax applies to the amount of the principal debt that is greater than the principal remaining on the original debt.

Recordation tax rates range from $2.50 per $500 transaction in Baltimore and Howard counties to $7.00 per $500 transaction in Frederick County. Most counties have tax rates set between $3.00 and $5.00. Recordation tax revenues, which declined because of decreased economic activity due to the pandemic are beginning to trend upward. *See*, County Revenue Outlook Report – FY 2023, as published by the Department of Legislative Services.[1]

[1] Frederick County does not have transfer taxes, which may result in less cash required at closing.

Recordation Tax Revenue – County Tax Rates FY2023



Source: [County Revenue Outlook Report – FY 2023]

BILL SPECIFICS

There are three elements of recordation tax: 1) the "base" recordation rate; 2) the school increment rate; and 3) the recordation tax premium rate. County law establishes each rate,[2] as follows:

- The "base" recordation rate is $2.08 for each $500 on the sale price or, if refinancing, on the additional amount borrowed over the remaining principal (if acquiring a home as a first-time home buyer, the first $100,000 of the sale cost is exempt**.) Bill 17-23 would not change the "base" rate** or how its revenue is allocated to the County's general fund.

- The "school increment" went into effect in 2004. It is also based on the sale price or, if refinancing, on the additional amount borrowed over the remaining principal. **This Bill would raise the rate from $2.37 to $3.79 for each $500**, effective July 1, and would be a 60% increase. Currently, the proceeds can be used for any Montgomery County Public Schools (MCPS) capital project. The Bill would still dedicate all the proceeds to MCPS projects.

- The "Recordation Tax Premium" went into effect in 2008. Unlike the other two elements, the Premium applies only to the cost of a property or a refinancing that is in excess of $500,000. The proceeds are split equally – half is allocated to County Government capital projects (i.e., capital projects of departments in the Executive Branch); the other half is for rental assistance. **This Bill would raise the rate from $2.30 to $3.45 for each $500**, effective July 1, and would be a 50% increase. The Recordation Tax Premium is an important revenue source for the Housing Initiative Fund. It has been used for traditional monthly rental assistance and to make many new units affordable for low-income seniors.

[2] County Code § 52-16B.

- **Bill 17-23 would also add a new premium rate of $1.15 for each $500** or fraction of $500 of the amount over $1,000,000 to be allocated for the Montgomery Housing Initiative, a 100% tax increase. The proceeds would be split equally – half allocated to County Government capital projects, and the other half is for rental assistance for low and moderate-income households.

Council staff[3] prepared the chart below to illustrate the preliminary fiscal impact of Bill 17-23 based on the Department of Finance's latest recordation tax information. The chart covers FY 23-28 to match the Approved Capital Improvement Program's six-year period. In addition, the chart includes an itemized line summarizing the total revenue increase that would be allocated to the CIP (Schools + County Government), of approximately $260.6 million dollars, considerably more than the current CIP funding gap of $207.5 million in the most recent CIP status report.

Recordation Tax Increases by Fiscal Year

School Increment +60%; Increased Premium 500K-1M +50%; Increased Premium 1M+ +100%

	FY23-28	FY23	FY24	FY25	FY26	FY27	FY28
Recordation Tax	**201,581,253**	-	37,524,451	39,281,628	39,510,609	41,579,571	43,684,994
Recordation Tax - General Fund	-	-	-	-	-	-	
Recordation Tax - School CIP	**201,581,253**		37,524,451	39,281,628	39,510,609	41,579,571	43,684,994
Recordation Tax - Premium	**118,019,272**	-	**21,969,347**	**22,998,116**	**23,132,178**	**24,343,488**	**25,576,144**
MCPS CIP	-		-	-	-	-	-
County Govt CIP	**59,009,636**		10,984,673	11,499,058	11,566,089	12,171,744	12,788,072
Rental Assistance	**59,009,636**		10,984,673	11,499,058	11,566,089	12,171,744	12,788,072
Recordation Tax + Premium Total	**319,600,525**	-	**59,493,798**	**62,279,744**	**62,642,787**	**65,923,059**	**69,261,138**
CIP Revenue Increase (School CIP + County Govt CIP)	**260,590,889**	-	**48,509,124**	**50,780,686**	**51,076,698**	**53,751,315**	**56,473,066**

SUMMARY OF IMPACT STATEMENTS

Fiscal Impact Statement (FIS). The Office of Budget and Management (OMB) analyzed the fiscal impact of the increased tax rates for school increment, and the increased recordation tax premiums. The fiscal impact is the difference in revenue forecasted under the existing rates allowed by law and estimated new rates. With this analysis, over the course of the next six years, OMB estimates the total revenue generated would be $393.3 million.[4] ©4.

Recordation tax is charged on real property transactions. The total revenue depends upon the total number of transactions—and their size--completed in each fiscal year. This amount may vary every year. The analysis provided in the FIS found, "that in the last 3 years, approximately 65% of the sales value exceeding $500,000 was between $500,000 and $1,000,000 and that 35% of the value exceeded $1,000,000." ©4. Based on these proportions, the Office was able to forecast the revenue generated from homes sold over $500,000 and $1,000,000 with the *new* recordation tax premium rates.

The analysis also notes a recommendation that the Council delay implementation of the Bill until January 2024. Finance stipulates this would provide sufficient time for software

[3] Chart prepared by Council Staff, Keith Levchenko, Senior Legislative Analyst
[4] This figure includes revenue in FY29, which is why it is higher than the $319.6 million in the chart above.

enhancements and configuration, along with adequate time for testing. See ©5. If this bill is approved in some form by late May, that would allow 7 months to make this transition. Of course, this would reduce the additional revenue in FY24 by 50%. In late 2020 when the Council was about to consider the Planning Board's proposal, the Finance Director noted that it would need 4 months for the transition. The effective date 4 months after adoption would be the beginning of October 2023, which would reduce additional revenue in FY24 by 25%.

Economic Impact Statement: The Office of Legislative Oversight (OLO) anticipates Bill 17-23 would have a small to moderate negative impact on economic conditions in the County in terms of the Council's priority indicators. Specifically, a negative impact would be on residential home buyers and sellers. By increasing the total cost of residential home transactions, certain buyers and sellers would pay higher closing costs than they otherwise would in the absence of the change in the recordation tax, but the result of a lower number of residential transactions would be short-term. ©6. The impact on business could result in a negative impact on real estate agents and realtors who would experience net losses in revenues. ©10.

Interestingly, however, Finance's revenue model assumes no change in the number or size of transactions, suggesting that these marginal changes will not have the material effect suggested by the EIS. Furthermore, the analysis does not include the effect of increasing rental assistance funding through the HIF and its impact.

Racial Equity and Social Justice (RESJ) Impact Statement: Bill 17-23 will have a positive impact on RESJ in the County through increasing funding for rent assistance programs that will disproportionately benefit Black, Latinx, and lower-income tenants. On the other hand, the RESJ impact of increased Capital Improvements Program (CIP) funding for government and Montgomery County Public Schools (MCPS) projects through Bill 17-23 is indeterminant.©14.

Climate Assessment: Bill 17-23 will have a minimal, positive impact on the County's contribution to addressing climate change as a portion of the revenue from the proposed tax increase would go towards rental assistance for low- and moderate-income households. This could increase housing stability for recipients of the assistance, which would have a minimal, positive impact on community resilience.© 21.

SUMMARY OF THE PUBLIC HEARING

The Council received testimonies both in support and opposition to Bill 17-23 at its April 11, 2023, public hearing.

Gordie Brenne, representing the Taxpayers League, supported the Bill with the caveat the Council should approve the recordation tax increase in lieu of the proposed 10% property tax increase recommended in the County Executive's FY24 budget. See Page ©25. Laura Stewart, testified on behalf of MCCPTA, in support of Bill 17-23, which would help advance and fund MCPS school CIP projects.

Paul Geller, a community advocate, testified, "I appreciate the intent of this bill, however, the proposed rate increases are far too high." Mr. Geller recommended amendments for the Council to consider. See ©27.

Justin McInerny, representing the Greater Bethesda Chamber of Commerce, testified in opposition. The Maryland Building Industry Association ("MBIA") submitted written testimony in opposition to Bill 17-23. ©28.

Avi Adler, representing the Greater Capital Area Association of Realtors, opposed the Bill and testified that, when recordation and transfer tax revenue per capita is compared, Montgomery is much higher than Frederick County where only recordation taxes are collected. (A chart showing the existing transfer and recordation tax rates in each Maryland county is on Page ©33.) He also testified that, "raising recordation taxes will heavily impact affordability in an already constrained market." See ©30.

Mr. Adler, also noted, that "aggressively raising the different rates by magnitudes of 60 percent, 50 percent, and 100 percent will drive prospective residents to our neighboring jurisdictions, hasten the overall decline in Montgomery County employment, and worsen our already slowing economic outlook."©30.

ALTERNATIVE PROPOSAL

Councilmembers Stewart, Fani-Gonzalez, and Katz are proposing an alternative to Bill 17-23, see page ©34. The recommendation is to leave the base rate and rate of the school increment would remain unchanged, but raise the premium higher, as follows:

- For recordation value between $600,000-$750,000, set the rate at $5.75/$500, a 150% increase over the current rate. (The rate for recordation value between $500,000-$600,000 would remain unchanged at $2.30/$500.)
- For recordation value between from $750,000-$1,000,000, set the rate at $6.33/$500, a 175% increase over the current rate.
- For recordation value above $1,000,000, set the rate at $6.90/$500, a 200% increase over the current rate.

Furthermore, the proceeds from the entire premium would be split into equal thirds between MCPS capital projects, County Government capital projects, and rental assistance. The additional revenue under this proposal is shown below:

Recordation Tax Increases by Fiscal Year

No Increase School Increment; Increased Premium $600K-750K +150%; Increased Premium $750K-1M +175%; Increased Premium over $1M+ +200%

	FY23-28	FY23	FY24	FY25	FY26	FY27	FY28
Recordation Tax	**-**	-	-	-	-	-	-
Recordation Tax - General Fund	**-**	-	-	-	-	-	
Recordation Tax - School CIP	**-**		-	-	-	-	-
Recordation Tax - Premium	**250,857,656**	**-**	**46,697,277**	**48,883,995**	**49,168,952**	**51,743,669**	**54,363,763**
MCPS CIP	**141,900,340**		26,414,819	27,651,759	27,812,948	29,269,365	30,751,449
County Govt CIP	**54,478,658**		10,141,229	10,616,118	10,678,002	11,237,152	11,806,157
Rental Assistance	**54,478,658**		10,141,229	10,616,118	10,678,002	11,237,152	11,806,157
Recordation Tax + Premium Total	**250,857,656**	**-**	**46,697,277**	**48,883,995**	**49,168,952**	**51,743,669**	**54,363,763**
CIP Revenue Increase (School CIP + County Govt CIP)	**196,378,998**	**-**	**36,556,048**	**38,267,877**	**38,490,950**	**40,506,517**	**42,557,606**

Therefore, under this proposal:

- The total additional revenue in FYs 24-28 is projected to be $250.9 million, $68.7 million (21.5%) less than Bill 17-23.
- The additional funding for the CIP would be $196.4 million, $64.2 million (24.6%) less than Bill 17-23. Recall again that the most recent CIP status report shows a funding gap of $207.5 million.
- The additional funding for rental assistance would be $54.5 million, $4.5 million (7.6%) less than Bill 17-23.

COMPARISON OF OPTIONS

A comparison of the rates under the current law, Bill 17-23, and Councilmembers Stewart, Fani-Gonzalez, and Katz's alternative approach are shown below:

	Existing Rates	Bill 17-23 Rates	Alternative Rates
Base rate	$2.08/$500	$2.08/$500	$2.08/$500
School Increment rate	$2.37/$500	$3.79/$500	$2.37/$500
Premium 1 rate ($500K-$600K)	$2.30/$500	$3.45/$500	$2.30/$500
Premium 1 rate ($600K-$750K)	$2.30/$500	$3.45/$500	$5.75/$500
Premium 2 rates ($750K-$1M)	$2.30/$500	$3.45/$500	$6.33/$500
Premium 3 rates (over $1M)	$2.30/$500	$4.60/$500	$6.90/$500

The total Recordation Tax paid at different price points for the three options is shown below, as well as the increase over existing rates. These prices represent what would be paid for an individual's primary residence that would be occupied by at least 7 months in the first year; in this circumstance, the law allows the first $100,000 of value not to be taxed.[5] *Note that standard practice is for the buyer and seller to split the cost of the Recordation Tax equally, so a buyer would normally pay half of what is displayed below.*

Sales Price	Existing Rates	Bill 17-23 Rates	CM Stewart Rates
$400,000	$2,670	$3,522 (+$852)	$2,670 ($0)
$500,000	$3,560	$4,696 (+$1,136)	$3,560 ($0)
$600,000	$4,910	$6,560 (+$1,650)	$4,910 ($0)
$700,000	$6,260	$8,424 (+$2,164)	$6,950 (+$690)
$800,000	$7,610	$10,288 (+$2,678)	$9,048 (+$1,495)
$900,000	$8,960	$12,152 (+$3,192)	$11,204 (+$2,244)

[5] The $100,000 exemption does not apply to refinancing, second home, or commercial transactions.

$1,000,000	$10,310	$14,016 (+$3,706)	$13,360 (+$3,050)
$1,250,000	$13,685	$19,251 (+$5,566)	$19,035 (+$5,350)
$1,500,000	$17,060	$24,486 (+$7,426)	$24,710 (+$7,650)

A major theme in the hearing testimony was concern about the potential effect of raising the recordation tax on affordability for homebuyers at the middle and lower end of the income spectrum. The chart on page ©38 displays home sales in 2022 (the last full year for which data is available) by housing type and the number of bedrooms. The median home price of all types in 2022 in Montgomery County was $555,000. Using $600,000 as a proxy for the median price in 2023, homes sold at or under the median price would pay no more than an additional $1,650 in recordation taxes under Bill 17-23, and no additional recordation taxes at all under the alternative proposal. The chart below displays the sales in 2022 at or under $600,000 by housing type and the number of bedrooms:

	Homes/Units Sold in 2022 under $600,000	**% Sales under $600,000**
Single-family detached: 1-2 BR	94	68%
Single-family attached: 1-2 BR	235	94%
Single-family detached: 3 BR	701	56%
Single-family attached: 3 BR	1,473	79%
Single-family detached: 4+ BR	879	18%
Single-family attached: 4+ BR	341	54%
Condominium Units	2,913	92%
Total	6,636	55%

Therefore, most of the homes in every category except single-family detached homes with 4 or more bedrooms would pay no more than $1,650 more under Bill 17-23 and no more at all under the Councilmembers' alternative proposal.

The chart on page ©39 displays the 2022 average sale prices for the County as a whole and in several submarkets (identified by zip code). The average price for a townhouse was about $426,000 and was below the $600,000 threshold in every area except Potomac. Most dwelling units considered to be affordable are either townhouses or condo units.

CONCLUSIONS

1. The higher recordation tax rates under Bill 17-23 would have a minimal-to-modest impact on the price of affordable housing. The higher rates under the alternative proposal would have no effect.
2. Bill 17-23 would generate funds to fully close the CIP funding gap in FYs 23-28, with about $53 million to spare, which would likely be allocated for higher capital reserves in the latter years of the CIP. The alternative proposal would nearly close the CIP funding

gap. In either case, because of the imbalance by year within the FY23-28 period, CIP Reconciliation will likely require some expenditures to be deferred from the earlier years to the later years of the FY23-28 period.

3. Bill 17-23 would generate $59.0 million more in FYs24-28 for rental assistance, increasing the contribution from the recordation tax premium by 67.5%. The alternative proposal would generate $54.5 million more, a 62.4% increase in the contribution from the premium.
4. If a version of this Bill is approved, the Committee will need to decide on an effective date (see suggested amendment by Council staff below). Any date later than July 1, 2023, will result in less additional revenue in FY24 (and in FYs 24-28) than is reported above. The foregone additional revenue in FY24, depending on the option selected, is as follows:

Effective Date	Bill 17-93	Alternative Proposal
October 1, 2023	-$12.1M CIP; -$2.8M rent asst	-$9.1M CIP; -$2.5M rent asst
January 1, 2024	-$24.2M CIP; -$5.5M rent asst	-$18.2M CIP; -$5.0M rent asst

AMENDMENT SUGGESTED BY COUNCIL STAFF

If the Committee wishes for Bill 17-23 to become effective as of July 1, 2023, Council staff recommends an amendment to make the Bill, expedited. An expedited bill under Charter Section 112 becomes effective immediately unless a different date is prescribed in law. If the Bill remains regular legislation the effective date would be 91 days after it becomes law, and this would impact the timeline for the County to receive revenue as illustrated in Conclusion #4.

In addition, the Committee should note the number of votes required to enact an expedited bill would be 7 Councilmembers.

Amend lines 33-34, as follows:

> **Sec 2. Expedited Effective date**. The Council declares that this legislation is necessary for the immediate protection of the public interest. Section 52-16B, as amended by Section 1 of this **[[**This**]]** Act, takes effect on July 1, 2023, and must apply to any transaction which occurs on or after July 1, 2023.

Decision Point: Whether to amend the Bill to become expedited?

Next Steps: Whether the GO Committee recommends adoption of Bill 17-23, as amended?

Bill No. 17-23
Concerning: Taxation - Recordation Tax Rates – Amendments
Revised: 3/3/2023 Draft No. 1
Introduced: March 21, 2023
Expires: December 7, 2023
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. _____, Laws of Mont. Co. _________

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Mink
Co-sponsor: Councilmember Jawando

AN ACT to:

(1) increase the rate of the recordation tax levied under state law for certain transactions;
(2) allocate the revenue received from the recordation tax for certain uses; and
(3) generally amend the law governing the recordation tax.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-16B

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 52-16B is amended as follows:

52-16B. Recordation Tax.

(a) *Rates.* The rates and the allocations of the recordation tax, levied under Md. Tax- Property Code §§12-101 to 12-118, as amended, are:

(1) for each $500 or fraction of $500 of consideration payable or of the principal amount of the debt secured for an instrument of writing, including the amount of any mortgage or deed of trust assumed by a grantee;

(A) $2.08, of which the net revenue must be reserved for and allocated to the County general fund; and

(B) [$2.37] $3.79, of which the net revenue must be reserved for and allocated to the cost of capital improvements to schools; and

(2) if the consideration payable or principal amount of debt secured exceeds $500,000, an additional [$2.30] $3.45 for each $500 or fraction of $500 of the amount over $500,000, of which the net revenue must be reserved for and allocated equally to:

(A) the cost of County government capital improvements; and

(B) rent assistance for low and moderate income households, which must not be used to supplant any otherwise available funds[.]; and

(3) if the consideration payable or principal amount of debt secured for a single-family dwelling unit exceeds $1,000,000, an additional $1.15 for each $500 or fraction of $500 of the amount over $1,000,000, of which the net revenue must be reserved for and allocated equally to:

(A) the cost of County government capital improvements; and

(B) rent assistance for low and moderate income households, which must not be used to supplant any otherwise available funds.

Sec 2. Effective date. This Act takes effect on July 1, 2023 and must apply to any transaction which occurs on or after July 1, 2023.

Fiscal Impact Statement

Office of Management and Budget

Bill 17-23 Taxation - Recordation Tax Rates - Amendments

Bill Summary

Bill 17-23 would amend the Recordation Tax Rate enforced by State law for certain transactions including property transfer and will allocate revenue received from the recordation tax to capital improvements for Montgomery County Public Schools (MCPS) and to the Montgomery Housing Initiative Fund (HIF). These amendments will not affect the base rate but will increase the school increment, increase the recordation tax premium, and would add a new premium tax rate for property sales over $1 million.

Fiscal Impact Summary

The increase in recordation tax revenues over the next six years is estimated to be $393.3 million.

Fiscal Year	2024	2025	2026	2027	2028	2029	Total
Personnel Costs	$0	$0	$0	$0	$0	$0	$0
Operating Expenses	$0	$0	$0	$0	$0	$0	$0
Total Expenditures	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
Revenues	**$59,494,000**	**$62,280,000**	**$62,643,000**	**$65,923,000**	**$69,261,000**	**$73,721,000**	**$393,322,000**
Total Impact	**$59,494,000**	**$62,280,000**	**$62,643,000**	**$65,923,000**	**$69,261,000**	**$73,721,000**	**$393,322,000**
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

Fiscal Impact Analysis

Assumptions

1. The analysis assumes that the recordation tax amendment will not impact the demand for housing and the number of home sales in Montgomery County.
2. The analysis does not incorporate the potential impact of any future changes to other costs of home ownership in Montgomery County such as a change to the property tax.
3. The expected rate changes are as follows:

- School Increment from $2.37 to $3.79 for each $500 of the sale price
- Recordation Tax Premium from $2.30 to $3.45 for each $500 of the sale price
- New premium tax rate of $1.15 in addition to the Recordation Tax Premium for each sale price over $1,000,000.

Analysis

The analysis uses the FY24 recommended budget recordation tax revenue forecast as the basis for the projected revenue raised between FY24 and FY29 from changing the recordation tax rates. Since there has not previously been an additional recordation tax imposed on sales above $1,000,000, the Department of Finance estimated the value of sales that previously fell into this category. To estimate the portion of the recordation tax premium that is generated by the value of sales exceeding $1,000,000, Finance analyzed the most recent sale for each of the over 265,000 residential properties in Montgomery County. For each year that reliable data was available Finance calculated the total sales value between $500,000 and $1,000,000 and the value in excess of $1,000,000. The analysis found that in the last 3 years, approximately 65% of the sales value exceeding $500,000 was between $500,000 and $1,000,000 and that 35% of the value exceeded $1,000,000. These proportions were applied to the forecast of the recordation tax premium to generate the amount of total sales value that would be subject to the two increments proposed in the bill.

Finance then divided the total forecasted revenues for each component/increment of the recordation tax (base rate, school increment, recordation tax premium greater than $1,000,000 sale value, recordation tax premium between $500,000 and $1,000,000 sale value) by the current rates to estimate the total property value sold and recorded for each of those components/increments. Once Finance estimated the total value of sales transacted in each fiscal year from FY24 to FY29 for each component/increment, the proposed rates were applied to those totals to estimate the revenues raised by the rates proposed in Bill 17-23. The resulting fiscal impact is the difference in revenue forecasted under the old rates and those estimated under the new rates.

Revenue Impact

The incremental revenues would be divided among the General Fund, MCPS CIP, and Rental Assistance programs as shown in the following table.

Fiscal Year (FY)	2024	2025	2026	2027	2028	2029	Total
MCPS CIP	$37,524,000	$39,282,000	$39,511,000	$41,580,000	$43,685,000	$46,498,000	$248,079,000
County Gov CIP	$10,985,000	$11,499,000	$11,566,000	$12,172,000	$12,788,000	$13,612,000	$72,621,000
Rental Assistance	$10,985,000	$11,499,000	$11,566,000	$12,172,000	$12,788,000	$13,612,000	$72,621,000
Recordation Tax Total	$59,494,000	$62,280,000	$62,643,000	$65,923,000	$69,261,000	$73,721,000	$393,322,000

Staff Impact	The Department of Finance anticipates the Treasury Division's current staff would be able to absorb the additional workload to implement this bill, although the bill represents a burden on staff time and duties at the proposed implementation date of July 1, 2023 which is the same time as the Treasury's annual tax billing, which takes up the first few months of the fiscal year.
Actuarial Analysis	The bill is not expected to impact retiree pension or group insurance costs.
Information Technology Impact	The Department of Finance indicates that the implementation date of July 1, 2023, would be difficult to achieve as it would not provide sufficient time for the billing software vendor to configure the Department's software to accept the new calculations and provide adequate time for testing before July 1, 2023. The Department of Finance recommends implementation of the bill be delayed until January 2024 to provide sufficient time for the software vendor to configure the software to accept the new calculations and provide adequate time for testing.
Other Information	
Later actions that may impact revenue or expenditures if future spending is projected	The value of homes sold and the resulting recordation tax may differ from the FY24 recommended budget estimates.
Contributors	Nancy Feldman, Department of Finance Dennis Hetman, Department of Finance Todd Fawley-King, Department of Finance Abdul Rauf, Management and Budget

Economic Impact Statement
Montgomery County, Maryland

Bill 17-23 Taxation – Recordation Tax Rates – Amendments

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 17-23 would have a small to moderate negative impact on economic conditions in the County in terms of the Council's priority indicators. By increasing the recordation tax, the Bill would increase the total cost of transactions for property transfers. In the residential sector (the focus of this analysis), certain buyers and sellers would pay higher closing costs than they otherwise would in the absence of the policy change, resulting in a one-time net increase in nondiscretionary expenses. Moreover, based on a review of the economic literature on the impacts of transfer taxes for residential properties and data on residential home sales in the County around the time the Council increased the recordation tax rate in September 2016, OLO believes there is a moderate likelihood the Bill would result in a short-term reduction in the volume of home sales in the County.

BACKGROUND AND PURPOSE OF BILL 17-23

A recordation tax is an excise tax imposed by certain states, including Maryland, as compensation for registering the purchase or sale of property as a public record.[1] The tax applies to the principal amount of debt secured by a mortgage or deed of trust when a house or building is being purchased. When a mortgage is refinanced, the tax applies to the amount of principal debt that is greater than the principal remaining on the original debt.[2]

Bill 17-23 proposes to increase the recordation tax rate levied under state law for certain transactions and allocates revenue received from the recordation tax for capital improvements and to the Montgomery Housing Initiative Fund (HIF). Specifically, the Bill proposes:

- Increasing the rate of the "school increment" from $2.37 to $3.79 for each $500 of the property's sale price.[3] The school increment funds can be used for any Montgomery County Public Schools capital project;
- Increasing the rate of the "Recordation Tax Premium" from $2.30 to $3.45 for each $500 on the property's sale price,[4] only if it is over $500,000. The proceeds are split equally – half is allocated to County Government capital projects and the other half is for rent assistance for low- and moderate-income households; and
- Adding a new premium rate of $1.15 for each $500 on the property's sale price,[5] only if it is over $1,000,000. The proceeds would be split equally – half would be allocated to County Government capital projects and the other half to rent assistance for low- and moderate-income households.[6]

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[1] Maryland Tax – Property Code §§12-101 to 12 -118.
[2] Introduction Staff Report for Bill 17-23.
[3] Or, if refinancing, on the additional amount borrowed over the remaining principal.
[4] Or, if refinancing, if additional amount borrowed over the remaining principal is over $500,000.
[5] Or, if refinancing, if additional amount borrowed over the remaining principal is over $1,000,000.
[6] Ibid.

Bill 17-23, Taxation – Recordation Tax Rates – Amendments, was introduced by the Council on March 21, 2023.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 17-23 on residents and private organizations in terms of the Council's priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.[7]

Scope Limitations: By increasing the recordation tax, Bill 17-23 would involve a transfer from certain residents to the County. Ultimately, the total annual economic impact of the Bill would depend on:

(a) the per year economic costs of the recordation tax increase; and

(b) the per year economic benefits of additional government expenditure.

OLO limits the scope of this analysis to the economic impacts of the recordation tax increase because it is unknown how County revenues would be used. While the Bill would earmark revenues from the tax increase for capital improvements and HIF, OLO cannot determine whether additional revenues would result in a net increase in funding for these areas due to the fungibility of money. [8]

Also, the Bill would increase the recordation tax for all property transactions (residential, commercial, industrial, etc.). Due to limited research on the economic impact of transfer taxes for non-residential building sales, OLO limits the scope to the economic impacts of increasing the recordation tax for residential home sales.

Information Sources: To do so, OLO performs a qualitative assessment based on the following sources of information:

- A 2018 report published by the UK Collaborative Centre for Housing Evidence (CaCHE) that reviews the peer-reviewed and "gray" literature[9] on the economic impacts of taxes on the transfer of residential property;[10] and
- Data on residential home sales in the County around the time the Council increased the recordation tax rate in September 2016 with the implementation of Expedited Bill 15-16, Recordation Tax – Rates – Allocations – Amendments.[11]

Assumptions: The primary assumption made in this analysis is that the increase in the total cost of residential home transactions would be shared by the seller and buyer at the time of sale.

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[7] Montgomery County Code, Sec. 2-81B.
[8] The bulk of recordation tax is spent on new schools or school modernizations, technology modernizations in MCPS and College, transportation improvements, and affordable housing acquisitions and preservation. If the taxes are raised, it would most likely be used in one of those areas. See Project Funding Detail By Revenue Source, pages 38-52 to 38-56.
[9] Gray literature is literature published outside of journal articles or books. It includes reports by governments, think tanks, and other institutions, working papers, graduate dissertations, and more.
[10] Lenoel, et al, "International Evidence Review on Housing Taxation."
[11] Expedited Bill 15-16.

VARIABLES

The primary variables that would affect the economic impacts of Bill 17-23 are the following:

- total cost of home transactions; and
- total volume of home sales.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Economics of Residential Transfer Taxes

The County's recordation tax is a one-time cost at the time of sale that adds to the total cost of transactions. Bill 17-23 would increase the recordation tax. As shown in **Table 1**, the recordation tax on a property that sells for $500,00 would increase by $1,420, from $4,450 (0.89% of the sales price) to $5,870 (1.17% of the sales price). For additional context, the table in the Appendix lists the current recordation tax rates in Maryland Counties per $1,000 in sales cost.

Would increasing the transfer tax rates alter the behavior of buyers and sellers? To answer this question, OLO reviewed the economics literature on the topic and data on residential home sales in the County around the time the Council increased the recordation tax rate in September 2016.[12]

Economics Research

The 2018 CaCHE report identified above reviewed studies on the economic impacts of taxes on the transfer of residential property conducted in the U.S., UK, Australia, France, Germany, Canada, and the Netherlands. In general, studies show transfer taxes have direct impacts on housing markets. Increasing transfer taxes has been found to reduce the number of transactions and house prices, while transfer tax "holidays" (i.e., temporary reductions or eliminations of a tax) have been found to increase transactions and house prices.

The CaCHE report also reviewed several studies on the indirect impacts of transfer taxes on labor markets. Two studies found that transaction costs reduced residential mobility in the Netherlands and the UK. Moreover, in a study of fourteen European countries, transaction costs were found to be positively associated with unemployment, perhaps because reduced housing transactions may contribute to mismatches in the demand and supply for labor.

It is worth noting that U.S. studies have found mixed results. On the one hand, Benjamin et al. (1993) found that an increase in the Real Estate Transfer Tax in Philadelphia decreased residential sales prices in the city relative to properties outside and that this decrease was larger than the tax increase. Moreover, Berger et al. (2020) found that the temporary First-Time Homebuyer Credit between 2008 and 2010 increased the number of home sales by 490,000 units nationally.[13]

On the other hand, two U.S. studies did not find evidence for the direct impacts of transfer taxes on the housing market. In a study not reviewed in the CaCHE report, Slemrod et al. (2017) examined DC's 2003 increase in transfer tax rate from

[12] Expedited Bill 15-16.

[13] The CaCHE report included an earlier version of this study in their analysis.

2.3% to 3% for homes sold for $250,000 or more. While they found the policy change resulted in sales price manipulation to avoid the higher tax rate, there is no evidence for its effect on the volume (nor timing) of transactions. In addition, Chen (2017) found no significant difference in housing price volatility between states with and without transaction taxes.

Table 1. Recordation Tax Amounts

Home Price	Tax Due	Difference from Proposed MoCo Rates
$500,000		
Montgomery County		
Current Rates	$4,450	
Proposed MoCo Rates	*$5,870*	
Frederick County	$7,000	19%
Howard County	$2,500	(57%)
$750,000		
Montgomery County		
Current Rates	$7,825	
Proposed MoCo Rates	*$10,530*	
Frederick County	$10,500	0%
Howard County	3,750	(64%)
$1,000,500		
Montgomery County		
Current Rates	$11,207	
Proposed MoCo Rates	*$15,200*	
Frederick County	$14,007	(8%)
Howard County	$5,003	(67%)

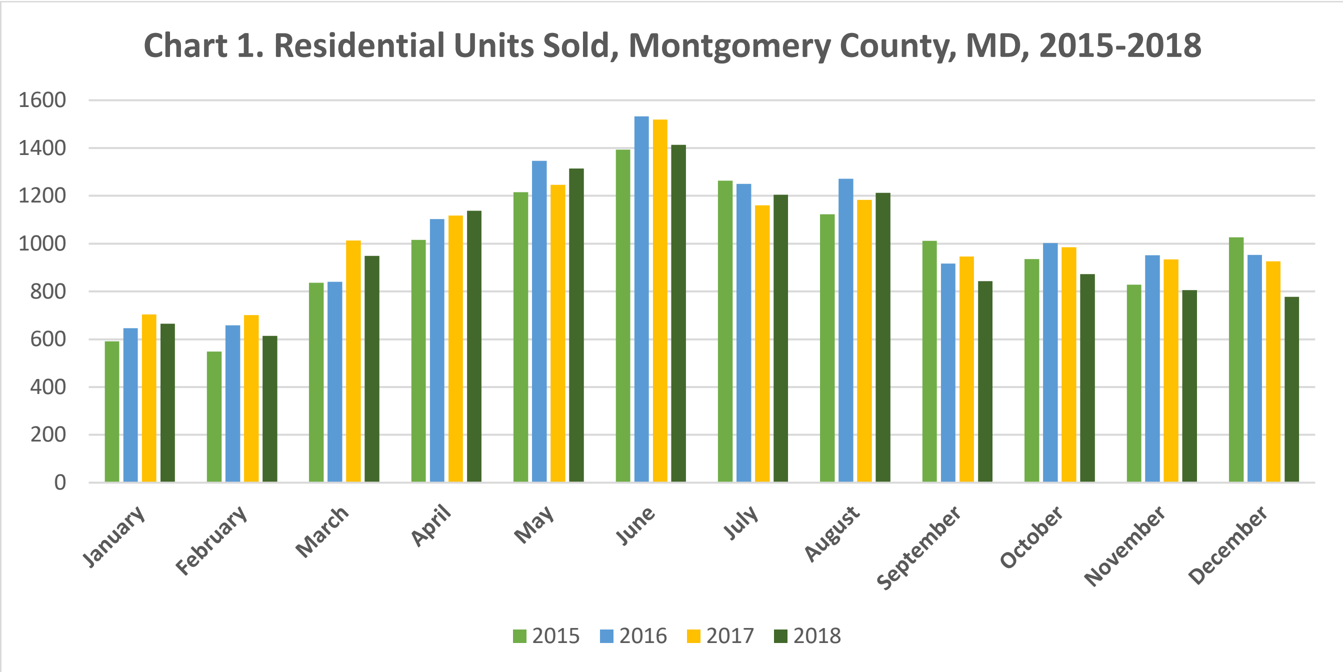
Montgomery County

Figure 1 below show monthly home sales in the County from 2015-2018,[14] which covers the period when the Council changed the recordation tax rates in September 2016. While time and data limitations prevented OLO from performing a rigorous quantitative analysis, OLO notes that the year-over-year changes in monthly home sales do not suggest an obvious, long-term impact from the tax increase.

The data show a cyclical pattern in monthly sales with the number of home sales increasing in the spring and summer and decreasing in the fall and winter. If an increase in the recordation tax had a large impact on home sales, one would expect

[14] For additional context, the three charts at the end of the memo show the same type of data – the number of monthly home sales from 2015-2018 – for Frederick County, MD, Howard County, MD, Fairfax County, VA, and Arlington, VA.

to see an increase in the number of homes sold prior to September 2016 as well as a reduction in the number of homes sold beginning in that month compared to sales in previous years. The data does show a sharp drop in homes sold in September 2016 compared to the previous month. However, following that time, monthly sales in 2016 do not appear systematically higher than the prior year home sales.



Source: [Maryland Realtor]

Based on the sources of information reviewed above, OLO concludes there is a low likelihood that Bill 17-23 would systematically lower the number of residential transactions over the mid- to long-term. However, OLO believes there is a moderate likelihood of the Bill resulting in a short-term reduction.

Residents

OLO anticipates that enacting Bill 17-23 would have a negative impact on certain residents in the County in terms of the economic indicators prioritized by the Council.

The Bill would primarily impact residential home buyers and sellers. By increasing the total cost of residential home transactions, certain buyers and sellers would pay higher closing costs than they otherwise would in the absence of the change in the recordation tax. Holding all else equal, they would experience a one-time net increase in nondiscretionary expenses.

Certain homebuyers may compensate for the increase in the total transaction cost by lowering their price range, thereby purchasing an asset less valuable than they otherwise would absent the policy change. It is worth noting certain residents could incur indirect costs from lowering their price range given the competitiveness of the County's residential housing market (e.g., paying additional months of rent or mortgage due to timing constraints).

Moreover, as suggested by studies that have found higher transfer taxes reduce home sales, certain residents may respond to higher recordation taxes by remaining in their current residence and/or expanding their search to more affordable housing markets. If sufficient in magnitude, a net decrease in demand in the local housing market (even if temporary) could have mixed impacts on other buyers and sellers. For instance, certain sellers may accept lower offers than they otherwise would in the absence of the recordation tax increases, which would benefit certain buyers.

Beyond these potential impacts, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

Businesses, Non-Profits, Other Private Organizations

OLO anticipates that enacting Bill 17-23 could have a negative impact on certain private organizations in the County in terms of the economic indicators prioritized by the Council. If the Bill reduces residential home transactions, certain real estate agents and realtors likely would experience net losses in revenues. Beyond this potential impact, OLO does not expect the Bill to affect private organizations in terms of the Council's other priority indicators.

Although this analysis does not examine the per year economic benefits of additional government expenditure, OLO believes it is worth noting the following: If an the increase in recordation tax goes towards new schools or school modernizations, technology modernizations in MCPS and College, transportation improvements, and affordable housing acquisitions and preservation, various private organizations in the construction industry would benefit from the Bill.

Net Impact

OLO anticipates that enacting Bill 17-23 would have an overall negative impact on economic conditions in the County in terms of the Council's priority economic indicators. By increasing the total cost of residential home transactions, certain buyers and sellers would pay higher closing costs than they otherwise would in the absence of the increase in the recordation tax. As a result, these buyers and sellers would experience a one-time net increase in nondiscretionary expenses. Moreover, based on a review of the economics literature on the impacts of transfer tax increases and data on residential home sales in the County around the time the Council increased the recordation tax rate in September 2016, OLO believes there is a moderate likelihood the Bill would result in a short-term reduction in the volume of home sales.

DISCUSSION ITEMS

Not applicable

WORKS CITED

Lenoel, Cyrille, Jeffrey Matsu, and Barry Naisbitt. International Evidence on Housing Taxation. UK Collaborative Centre for Housing Evidence. September 2018.

Montgomery County Code. Sec. 2-81B, Economic Impact Statements.

Montgomery County Council. Introduction Staff Report for Bill 17-23, Taxation – Recordation Tax Rates – Amendments. Introduced on March 21, 2023.

Slemrod, Joel, Caroline Weber, and Hui Shan. "The behavioral response to housing transfer taxes: Evidence from a notched change in D.C. policy." *Journal of Urban Economics*. Vol 100 (2017): 137-153.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not 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.

AUTHOR

Stephen Roblin (OLO) prepared this report, with contributions from Leslie Rubin (OLO).

APPENDIX

Table. Current Recordation Tax Rates for Maryland Counties[15]

	Recordation Tax Rate (per $1,000)
Allegheny County	$7.00
Anne Arundel County	$7.00
Baltimore City	$10.00
Baltimore County	$5.00
Calvert County	$10.00
Caroline County	$10.00
Carroll County	$10.00
Cecil County	$8.20
Charles County	$10.00
Dorchester County	$10.00
Frederick County	$14.00
Garrett County	$7.00
Harford County	$6.60
Howard County	$5.00
Kent County	$6.60
Montgomery County	**$8.90 on 1st $500K, $13.50 above $500K**
Prince George's County	$5.50
Queen Anne's County	$9.90
St. Mary's County	$8.00
Somerset County	$6.60
Talbot County	$12.00
Washington County	$7.60
Wicomico County	$7.00
Worcester County	$6.60

Source: Capitol Title

[15] Note that several jurisdictions, including Montgomery County, exempt certain portions of the sales cost from the tax, such as first-time buyers or if a property is the buyer's principal residence. Those exemptions are not included here.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 17-23: TAXATION – RECORDATION TAX RATES – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 17-23 will have a positive impact on racial equity and social justice (RESJ) in the County through increasing funding for rent assistance programs that will disproportionately benefit Black, Latinx, and lower-income tenants. Rent assistance will support increased housing stability for benefitting tenants, which will likely encourage positive outcomes across multiple areas of well-being. On the other hand, the RESJ impact of increased Capital Improvements Program (CIP) funding for government and Montgomery County Public Schools (MCPS) projects through Bill 17-23 is indeterminant. As such, OLO cannot estimate the overall size of the RESJ impact of this Bill. Of note, the positive RESJ impact of this Bill relies on the assumption that additional revenue raised by the tax will be spent specifically to supplement and not replace current funding of rental assistance.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.[1] Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.[2]

PURPOSE OF BILL 17-23

A recordation tax is an excise tax imposed by certain states, including Maryland, as compensation for registering the purchase or sale of property as public record.[3] The tax applies to the principal amount of debt secured by a mortgage or deed of trust when a house or building is being purchased. When a mortgage is refinanced, the tax applies to the amount of the principal debt that is greater than the principal remaining on the original debt.[4]

Bill 17-23 proposes to increase the recordation tax rate levied under state law for certain transactions and allocate revenue received from the recordation tax for capital improvements and for rent assistance programs through the Montgomery Housing Initiative Fund (HIF). Specifically, the Bill proposes:[5]

- Increasing the rate of the "school increment" from \$2.37 to \$3.79 for each \$500 of the secured debt amount. The school increment funds can be used for any MCPS capital project;
- Increasing the rate of the "Recordation Tax Premium" from \$2.30 to \$3.45 for each \$500 on the secured debt amount, only if it is over \$500,000. The proceeds are split equally – half is allocated to County government capital projects and the other half is for rent assistance for low- and moderate-income households; and
- Adding a new premium rate of \$1.15 for each \$500 on the secured debt amount, only if it is over \$1,000,000. The proceeds would be split equally – half would be allocated to County government capital projects and the other half to rent assistance for low- and moderate-income households.

Bill 17-23, Taxation – Recordation Tax Rates – Amendments, was introduced by the Council on March 21, 2023.

TAX POLICY AND RACIAL EQUITY

In FY23, taxes comprised nearly 70 percent, or $4.4 billion, of County revenues, funding essential services ranging from public schools and parks to health and human services and transportation.[6] Taxes are fundamental, and the policies that shape them have been a strong conduit for embedding racial inequities throughout society. As explained by the Colorado Fiscal Institute, government policies and actions advantaging White people while suppressing Black, Indigenous, and Other People of Color (BIPOC) created an environment where "state and local budget and tax policies often deepened the profound challenges that people [of color] faced even when those tax policies were not explicitly race-based."[7]

In *The Color of Law*, Richard Rothstein's analysis of how local governments "extracted excessive taxes" from Black residents through inequitable property tax assessments illustrates how tax policies can exacerbate racial inequities. Among other evidence, he cites a 1973 study of ten large U.S. cities, including Baltimore, by the Department of Housing and Urban Development. The study found a "systematic pattern of overassessment in low-income African American neighborhoods, with corresponding underassessment in [W]hite middle-class neighborhoods." Rothstein explains that higher property taxes contributed to the deterioration of Black neighborhoods through leaving families with less money for home maintenance, forcing families to double up to afford tax payments, and causing families to altogether lose their homes to tax-lien repossessions.[8]

Today, tax policies continue to exacerbate racial inequities. For instance, because of government policies and practices that created the racial wealth gap,[9] White families disproportionately benefit from the lack of taxation on wealth in the U.S.[10] Further, a study published in 2020 of 118 million homes in the U.S. suggests that discrimination in local property tax assessments persists. The study found that, within the same local jurisdiction, Black and Latinx homeowners paid a 10 percent to 13 percent higher tax rate on average compared to White homeowners. This amounts to an extra $300 to $400 annually in property taxes for the median Black and Latinx homeowner.[11] A 2021 report from WUSA9 documented how residents of a historically Black neighborhood in D.C. were being strained by property tax assessments amid gentrification of the neighborhood.[12]

Just as tax policies have played a key role in entrenching racial inequities, they can play a central role in undoing them. The Institute on Taxation and Economic Policy (ITEP) offers the following general recommendations for state and local governments to advance racial equity through tax policy:[13]

- Ensure the wealthy pay their fair share by structuring a progressive tax code free of special treatment for people with high incomes or wealth.
- Improve the financial standing of low-income families with targeted, refundable credits.
- Reduce reliance on fees and fines by shifting toward progressive revenue sources at the state and local levels.
- Create adequate, sustainable revenue levels to support the public services and institutions essential to building broadly shared prosperity.

Equitable tax policies can also be crafted for specific taxation methods. For instance, the Urban Institute offers recommendations for developing equitable property tax assessments.[14]

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 17-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

To answer these questions, OLO considered the various stakeholders that would be impacted by an increase in the recordation tax and RESJ concerns for each group:

- **Potential homebuyers, current homeowners, and other stakeholders** would face higher costs to purchase or refinance a home or building in the County. With respect to homes, White and Asian people are more likely to be homeowners in the County, as evidenced by existing disparities in homeownership rates (Table 1, Appendix). Table 2 (Appendix) lists the median net worth of Washington Metropolitan Area households by race and ethnicity, as estimated by the Urban Institute from 2014 survey data. This data suggests that Black and Latinx households have low levels of wealth available to make a major purchase, in contrast to White and Asian households. Census data suggests White and Asian constituents also have higher median incomes, further implying homeownership is more attainable for these households (Table 3, Appendix).
- **County constituents, government employees and other stakeholders using government facilities** would benefit from increased CIP funding for County government capital projects, including transportation, public safety, libraries, recreation, and general government projects.[15] Council staff estimates Bill 17-23 would increase funding for FY23-28 government CIP projects by $59 million over six years.[16]

  OLO considered cumulative funding for County government projects in the approved FY23 CIP budget to understand whether certain communities could benefit more from increased funding. Table 4 (Appendix) contains the demographics of the former Council districts referenced in the FY23 CIP budget. However, Table 5 (Appendix) demonstrates that most funding (54.1 percent or $3.5 billion) for government projects was not identifiable by district. Thus, it is unclear whether the increased CIP funding for government projects would particularly benefit stakeholders in districts where BIPOC or White constituents are overrepresented.
- **Students, staff and other MCPS stakeholders** would benefit from increased funding for MCPS capital projects. Council staff estimates Bill 17-23 would increase funding for FY23-28 MCPS CIP projects by $202 million over six years.[17]

  OLO considered cumulative funding for MCPS projects in the approved FY23 CIP budget to understand whether certain communities could benefit more from increased funding. Table 6 (Appendix) demonstrates that for the FY23 approved CIP, most funding (41.8 percent or $1.7 billion) for MCPS projects was not identifiable by district. Thus, it is unclear whether the increased CIP funding for MCPS would particularly benefit stakeholders in districts where BIPOC or White constituents are overrepresented.

- **Low- to moderate-income tenants** would benefit from increased funding for rent assistance programs. Council staff estimates Bill 17-23 would increase funding for rent assistance programs by $59 million over six years.[18]

  Census data in Table 7 (Appendix) suggests Black and Latinx households could disproportionately benefit from increased rent assistance, as they are overrepresented among renter households. Further, the median household income of renter households in the County was $72,005 compared to $117,345 for all households in the County, suggesting that lower-income residents could also primarily benefit from increased rent assistance.[19] Rent assistance supports housing stability for tenants,[20] which in turn promotes education, economic security, and health.[21]

Taken together, OLO anticipates Bill 17-23 will have a positive impact on RESJ in the County through increasing funding for rent assistance programs that will disproportionately benefit Black, Latinx, and lower-income tenants. Rent assistance will support increased housing stability for benefitting tenants, which will likely encourage positive outcomes across multiple areas of well-being. On the other hand, the RESJ impact of increased CIP funding for government and MCPS projects through Bill 17-23 is indeterminant. As such, OLO cannot estimate the overall size of the RESJ impact of this Bill. Of note, the positive RESJ impact of this Bill relies on the assumption that additional revenue raised by the tax will be spent specifically to supplement and not replace current funding of rental assistance.

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.[22] OLO anticipates Bill 17-23 will have a positive impact on RESJ, with some components having an indeterminant impact. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this Bill, the following item can be considered:

- **Comprehensive equity review of the CIP.** To have a more accurate understanding of the RESJ impact of CIP projects, the Council could consider commissioning a comprehensive equity review of the CIP, as previously recommended for Expedited Bills 15-22, 16-22, and 19-22.[23]

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.

Contributions

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

APPENDIX

Table 1: Homeownership Rates by Race and Ethnicity, Montgomery County

Race and Ethnicity[24]	Homeownership Rate
All	65.7
Asian	69.1
Black	43.3
White	77.1
Latinx	54.3

Source: Table S0201, 2021 American Community Survey 1-Year Estimates, Census Bureau.

Table 2: Household Median Net Worth by Race and Ethnicity, Washington Metropolitan Area

Race and ethnicity	Median Net Worth
White	$284,000
Black, US	$3,500
Black, African	$3,000
Latinx	$13,000
Chinese	$220,000
Korean	$496,000
Vietnamese	$423,000
Asian Indian	$573,000

Source: Urban Institute, "The Color of Wealth in the Nation's Capital" (adapted from Table 12)

Table 3: Median Household Income by Race and Ethnicity, Montgomery County, Maryland

Race and ethnicity	Median Household Income
All	$117,345
Asian	$128,746
Black	$82,835
Native American	$95,129
White	$139,371
Latinx	$85,910

Source: Table S1903, 2021 American Community Survey 5-Year Estimates, Census Bureau.

Table 4: Resident Demographics by Council District[25]

District	% White	% Black	% Latinx	% Asian
Countywide	45.9	17.3	18.6	14.5
District 1	71.5	4.8	8.5	12.0
District 2	40.1	19.0	19.2	18.2
District 3	45.8	12.2	18.8	19.5
District 4	38.6	18.5	26.4	12.7
District 5	33.2	32.4	20.2	10.2

Source: 2016 Demographic Profile of Council Districts.

Table 5: Total Cost of FY23 Government CIP Projects* by Council District

District	Total Cost (in thousands)	Total Cost (%)
Countywide	$3,541,096	54.1
District 1	$751,004	11.5
District 2	$515,884	7.9
District 3	$622,709	9.5
District 4	$505,127	7.7
District 5	$613,875	9.4

*Includes culture and recreation, general government, public safety, and transportation projects
Source: Montgomery County Office of Management and Budget via Open Budget.

Table 6: Total Cost of FY23 MCPS CIP Projects by Council District

District	Total Cost (in thousands)	Total Cost (%)
Countywide	$1,697,735	41.8
District 1	$593,069	14.6
District 2	$523,296	12.9
District 3	$390,571	9.6
District 4	$405,734	10.0
District 5	$451,107	11.1

Source: Montgomery County Office of Management and Budget via Open Budget.

Table 7: Percent of All Households and Renter-Occupied Households by Race and Ethnicity, Montgomery County, MD

Race and ethnicity	All Households	Renter-Occupied Households
Asian	14.4	12.2
Black	18.0	30.0
Native American	0.3	0.3
Pacific Islander	0.1	0.1
White	55.0	40.5
Latinx	14.3	18.8

Source: Table S2502, 2021 American Community Survey 5-Year Estimates, Census Bureau.

[1] Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. https://www.racialequitytools.org/glossary
[2] Ibid
[3] Maryland Tax – Property Code §§12-101 to 12 -118, https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gtp&section=12-108&enactments=false
[4] Introduction Staff Report for Bill 17-23, Montgomery County Council, March 21, 2023. https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2792_1_24860_Bill_17-2023_Introduction_20230321.pdf
[5] Ibid
[6] FY23 Approved Revenues, Montgomery County Open Budget. https://apps.montgomerycountymd.gov/basisoperating/Common/BudgetRevSnapshot.aspx

[7] Structural Racism and State Tax Policy: A Walk through History, Colorado Fiscal Institute. https://www.coloradofiscal.org/wp-content/uploads/2020/02/Posters-for-Racist-Roots.pdf

[8] Richard Rothstein, *The Color of Law,* pages 169-172 (Liveright, 2017)

[9] "Turning the Floodlights on the Root Causes of Today's Racialized Economic Disparities," Federal Reserve Bank of Boston, December 2020. https://www.bostonfed.org/publications/community-development-field-notes/2020/racialized-economic-disparities.aspx

[10] Shaun Harrison, "How Inequities in U.S. Taxation Can Perpetuate Systemic Racism," Washington Center for Equitable Growth, April 20, 2021. https://equitablegrowth.org/how-inequities-in-u-s-taxation-can-perpetuate-systemic-racism/

[11] Carlos Fernando Avenancio-Leon and Troup Howard, "Misvaluations in Local Property Tax Assessments Cause the Tax Burden to Fall More Heavily on Black, Latinx Homeowners," Washington Center for Equitable Growth, June 10, 2020. https://equitablegrowth.org/misvaluations-in-local-property-tax-assessments-cause-the-tax-burden-to-fall-more-heavily-on-black-latinx-homeowners/

[12] Diego Mendoza, How Rising Property Taxes are Disproportionately Impacting Low-Income, Gentrified Neighborhoods," WUSA9, August 13, 2021. https://www.wusa9.com/article/news/local/dc/rising-property-taxes-disproportionately-impact-low-income-gentrified-neighborhoods/65-3851f7b5-f2aa-415f-8880-d19e44122618

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[14] Caitlin Young, "What Policymakers Need to Know about Racism in the Property Tax System," The Urban Institute, March 15, 2023. https://housingmatters.urban.org/articles/what-policymakers-need-know-about-racism-property-tax-system

[15] Specific government projects confirmed by Council staff

[16] Introduction Staff Report for Bill 17-23

[17] Ibid

[18] Ibid

[19] Table S2503, Financial Characteristics, 2021 American Community Survey 5-Year Estimates, Census Bureau.

[20] Will Fischer, et. al, "Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families," Center on Budget and Policy Priorities, December 5, 2019. https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand

[21] "Promoting Mental Health Through Housing Stability," Office of Policy Development and Research, U.S. Department of Housing and Urban Development, May 31, 2022. https://www.huduser.gov/portal/pdredge/pdr-edge-trending-053122.html

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

[23] Racial Equity and Social Justice Impact Statement for Expedited Bill 19-22, Office of Legislative Oversight, Montgomery County, Maryland, June 29, 2022. https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2022/BillE19-22.pdf

[24] Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted. Estimates for Native American and Pacific Islander constituents not available for all data points presented in impact statement.

[25] Latinx people are not included in other racial groups within this table.

Climate Assessment

Office of Legislative Oversight

Bill 17-23: Taxation – Recordation Tax Rates - Amendments

Summary

The Office of Legislative Oversight (OLO) anticipates Bill 17-23 will likely have a minimal, positive impact on the County's contribution to addressing climate change as a portion of the revenue from the proposed tax increase would go towards rental assistance for low- and moderate-income households. This could increase housing stability for recipients of the assistance, which would have a minimal, positive impact on community resilience. However, this positive impact relies on the assumption that additional revenue raised by the tax will be spent specifically to supplement and not replace current funding of rental assistance.

Background and Purpose of Bill 17-23

A recordation tax is an excise tax imposed by certain states, including Maryland, as compensation for registering the purchase or sale of property as public record.[1] The tax applies to the principal amount of debt secured by a mortgage or deed of trust when a house or building is being purchased. When a mortgage is refinanced, the tax applies to the amount of principal debt that is greater than the principal remaining on the original debt.[2]

Bill 17-23 proposes to increase the recordation tax rate levied under state law for certain transactions and allocate revenue received from the recordation tax for capital improvements and to the Montgomery Housing Initiative Fund (HIF). Specifically, the Bill proposes:

- Increasing the rate of the "school increment" from $2.37 to $3.79 for each $500 of the property's sale price.[3] The school increment funds can be used for any Montgomery County Public Schools capital project;
- Increasing the rate of the "Recordation Tax Premium" from $2.30 to $3.45 for each $500 on the property's sale price,[4] only if it is over $500,000. The proceeds are split equally – half is allocated to County Government capital projects and the other half is for rent assistance for low and moderate income households; and
- Adding a new premium rate of $1.15 for each $500 on the property's sale price,[5] only if it is over $1,000,000. The proceeds would be split equally – half would be allocated to County Government capital projects and the other half to rent assistance for low- and moderate-income households.[6]

Bill 17-23, Taxation – Recordation Tax Rates – Amendments, was introduced by the Council on March 21, 2023.

Methodologies, Assumptions, and Uncertainties

Methodology. OLO conducted a literature review of rental assistance and its impact on housing stability, which increased community resilience. OLO also reviewed previous County revenue from recordation taxes.

Assumptions. The additional revenue earmarked for rental assistance from the proposed tax increase will be spent specifically to supplement and not replace current funding of rental assistance. This will allow for new recipients to have increased housing stability, in addition to current recipients, therefore positively impacting community resilience.

Uncertainties. There are a couple uncertainties associated with the analysis of Bill 17-23: (1) How many recipients of rental assistance there will be and; (2) If the assistance leads to housing stability for recipients.

Rental assistance and its impact on community resilience

Recordation taxes are an important source of revenue for local governments and can be used for a variety of projects and programs. In FY23, Montgomery County is projected to receive $206,466,368[7] in revenue from recordation taxes.[8] Council staff estimate the overall revenue from the proposed tax increase from FY23 through FY28 will be $319,600,525. Of that estimated revenue, approximately $59,009,636 will be earmarked for rental assistance for low- to moderate-income households.[9] Other revenue from the tax would go towards capital improvement projects, such as schools, transportation, public safety, libraries, recreation, and general government projects.[10]

Rental assistance can increase housing stability for recipients, which is an important component of community resilience.[11] Housing stability is associated with physical, social, and psychological well-being for individuals, as well as enhanced social cohesion and community ties.[12] Enhanced social cohesion and community ties enable residents to stay better connected, especially during extreme weather and other emergencies.[13]

Anticipated Impacts

Community Resilience. The Office of Legislative Oversight (OLO) anticipates Bill 17-23 will likely have a minimal, positive impact on the County's contribution to addressing climate change as a portion of the revenue from the proposed tax rates would go towards rental assistance for low- and moderate-income households. This could increase housing stability for recipients of the assistance, which would have a minimal, positive impact on community resilience. However, this positive impact relies on the assumption that additional revenue raised by the tax will be spent specifically to supplement and not replace current funding of rental assistance.

For homebuyers, recordation taxes are a very small percentage of the overall cost of the property and there is no evidence that changes in housing transfer taxes, such as recordation taxes, significantly impacts the volume of house sales.[14] Therefore, the proposed tax increase will likely not impact housing stability for home buyers and owners.

Greenhouse Gas Emissions. There is not enough information available, such as specific capital improvement projects that would be funded by the proposed tax increase, to anticipate any impact on greenhouse gas emissions.

Recommended Amendments

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.[15] OLO does not offer recommendations or amendments as Bill 17-23 is likely to have a minimal, positive impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

Caveats

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not 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.

Purpose of Climate Assessments

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

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[1] Maryland Tax – Property Code §§12-101 to 12 -118, https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gtp&section=12-108&enactments=false
[2] Introduction Staff Report for Bill 17-23, Montgomery County Council, March 21, 2023. https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2792_1_24860_Bill_17-2023_Introduction_20230321.pdf
[3] Or, if refinancing, on the additional amount borrowed over the remaining principal
[4] Or, if refinancing, if additional amount borrowed over the remaining principal is over $500,000
[5] Or, if refinancing, if additional amount borrowed over the remaining principal is over $1,000,000
[6] *Ibid.*
[7] Estimate is based off the current recordation tax, not the proposed increase by Bill 17-23.
[8] "County Revenue Outlook Fiscal 2023", Department of Legislative Services Office of Policy Analysis, December 2022.
[9] Introduction Staff Report for Bill 17-23, Montgomery County Council, March 21, 2023. https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2792_1_24860_Bill_17-2023_Introduction_20230321.pdf
[10]Feedback from County Staff
[11] "The Effects of Rental Assistance on Housing Stability, Quality, Autonomy, and Affordability, Schapiro, R., et. al., Housing Policy Debate, January 8, 2021.
[12] "Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families", Fischer, W., et. al., Center on Budget and Policy Priorities, December, 5. 2019.
[13] "Equitable Adaptation Legal and Policy Toolkit", Georgetown Climate Center, Accessed 4/3/23.
[14] "Real Estate Transfer Taxes and Housing Price Volatility in the United States", Chen, H., International Real Estate Review, 2017., "The Behavioral Response to Housing Transfer Taxes: Evidence from a Notched Change in D.C. Policy", Slemrod, J., et. al., Journal of Urban Economics, July 2017.
[15] Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

MCTL Testimony- Recordation Tax Increase, Bill 17-23, 4/11/23, Gordie Brenne

1. **Introduction**- This is a historic moment for the Taxpayers League because we support raising the recordation tax with restrictions. We ask that the recordation tax increase be done in lieu of a property tax increase, and used solely to bolster the MCPS operating budget- specifically to narrow the achievement gap and improve oversight with a dedicated MCPS OIG reporting to the School Board. We ask you to put aside ideology and political obligations and put our kids ahead of adults by incentivizing MCPS to target pay raises at low-income school teachers and effective principals who know best how to manage school performance. You will still have to cut spending to balance the budget without harmful property tax increases. Also, recordation taxes are damaging to economic growth, but will hurt fewer residents than a property tax increase, and you can mitigate the negative impact on affordable housing by minimizing proposed rent controls.
2. **Benefits**- Relying on a recordation not a property tax increase best meets racial justice and social equity objectives, and avoids more property tax inequities. The achievement gap is the largest ever and increased funding should be accompanied by better management to assure **every kid who isn't proficient in reading or math gets intervention help next year.** We support the **Black and Brown Coalition's recommendation** for more effective principals and teachers in low-income schools to get this done.
3. **Allocations**- Proposed allocations for the MCPS capital budget or Housing Initiative Fund (HIF) are not as important as lowering the achievement gap for racial equity and social justice objectives, or as cost effective. Debt service displaces operating budget priorities for families and students as interest rates rise. HIF subsidies in the form of rental assistance will not offset the cost of a future generation of poorly educated kids. (Also, HIF subsidies as project loans will not grow affordable housing as fast as demand because poor job creation by our weak economic development program increases developer project risks, and puts taxpayers at greater risk for loan defaults).
4. **MCPS Budget Strategies**- MCPS strategies are ineffective and need better Council incentives. Tutoring and ad hoc teacher interventions reach only a small percentage of kids who aren't proficient in math and reading. Management has not yet answered the Board's question last fall about what happens to chronically failing schools. But, the Council has made a habit of boosting the MCPS operating budget above the Maintenance of Effort (MoE) level without specifying performance targets to lower the achievement gap, and without regard to high non-instruction spending (45 cents of every dollar, vs. 37 cents in Fairfax County). **Increases above MoE spending tied to corresponding annual gap reduction performance improvement targets will improve performance and cost controls.** (For example, the central office doesn't know if approved intervention strategies are adequately funded because they admit to not knowing how many teacher interventions are done, or how many are needed, and haven't specified the additional teacher time and compensation required in low-income schools. Effective principals know how to do this).

Additional Written Testimony

5. **Property Tax Burdens and Inequities**- Funding above MoE should be tied to recordation tax revenue increases to avoid increasing the burden and inequity of property tax increases. Property tax increases fall hardest on low income and fixed income residents. Any increase would be on top of last year's huge appraisal increase driven property tax increase. Property taxes are inequitable. For example, tear downs and replacement of affordable housing often reduce the affordable housing inventory, and are exempt from immediate reappraisal because they are not treated as "new construction." Many are initially appraised at land values only (for permits finalized after razing). Property tax increases raise the costs of owned and rented affordable housing. Recordation taxes are a one-time transaction cost and should have a lower impact.
6. **Effective Principals**- Raising teacher salaries across the board subverts racial equity and social justice objectives and will not narrow the gap without better low-income school principals. Standard strategies like increased interventions, and parent communications need to be supplemented with innovations led by school principals and additional assistant principals, not the central office. Only schools have the data and ability to lead gap reduction efforts tailored to their specific student and family needs.
7. **MCPS OIG**- A dedicated MCPS OIG is needed because the seven-year state audit cycle is not timely and misses fraud, waste, and abuse. The same is true for the County's OIG. Both missed the bus revenue fraud made public last year. A dedicated OIG would report to the Board, would strengthen their focus on overhead and instruction costs, and asset and liability management. A more robust risk management program led by the OIG should include self-assessments to strengthen internal controls.

Testimony for the Montgomery County Council
Bill 17-23, Taxation – Recordation Tax Rates - Amendments
by Paul Geller, Community Advocate - Tuesday, April 11, 2023

Council President Glass, Council Vice President Friedson, Councilmember Mink, Councilmember Jawando, and distinguished Councilmembers,

I support this bill's goal. That said, please consider modifying the school impact tax charged for new construction along with a greater push for statewide investment in public school construction instead.

From 2015-16 I served on MCCPTA's Next Steps Reps ad hoc committee. We met often and consulted with elected officials to find ways to fund MCPS construction. After much deliberation, the Next Step Reps came up with a dual approach to funding MCPS construction:

1) Changing the Recordation Tax rate to better reflect the value residents were getting from MCPS. This added about $0.27 per day to the average cost of a new mortgage, refinancing an existing mortgage, or selling a house or building.[1] The School Increment change brought in about $135M more between FY17 and FY20 compared to FY13 through FY16.

2) Updating the school impact tax in the Subdivision Staging Policy (SSP) so those creating new housing would pay the fair share of the cost per school seat generated by their project(s). Until 2016 the rate was 90% of the cost of every new school seat, causing a construction deficit for MCPS projects. We successfully advocated for this to be changed to 120%.[2]

The work the Council did in 2016 was a landmark for funding MCPS construction. Changes made to the SSP, now known as the Growth and Infrastructure Policy[3], included reducing the school impact tax to 100%. This should be changed back to 120%, otherwise MCPS will fall behind again.

I appreciate the intent of this bill, however the proposed rate increases are far too high. There are other ways to fund MCPS projects without placing too much of a burden on homeowners and potential homeowners. With an ongoing need to fund MCPS projects, coupled with the need to implement the Blueprint for Maryland's Future and its pre-K requirements for three and four year olds, please:

1) Consider returning to the universal 120% school impact tax for all new housing construction when the Growth and Infrastructure Policy is reviewed in 2024, so school construction projects are once again fairly and properly funded moving forward.

2) With a new administration in Maryland, and a Montgomery Countyan as Lieutenant Governor, ask the state to fund a greater share of public school construction costs.

Thank you,

Paul Geller
Community Advocate
ppgusaAThotmail.com

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[1] Testimony given on May 10, 2016. Passed unanimously as Expedited Bill 15-16 on May 18, 2016.
[2] Testimony given on September 13, 2016. Passed unanimously as Bill 37-16 on November 15, 2016.
[3] The Growth and Infrastructure Policy was approved on November 16, 2020.

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

April 11th, 2023

Hon. Evan Glass
President, Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Re: Testimony in Opposition - Bill 17-23, Recordation Tax Rate

Dear President Glass and Councilmembers

The Maryland Building Industry Association ("MBIA") is submitting testimony in strong opposition Bill 17-23, which would increase the rate of the recordation tax levied under state law for certain transactions involving the transfer of property and allocate the revenue received from the recordation tax to certain county initiatives. The "recordation tax premium" applies to properties or refinancing that are over half a million dollars. The sponsor's bill proposes increasing that from $2.30 to $3.45 for each $500, effective July 1. Funds from that premium are split between county government capital projects and the county's Housing Initiative Fund, which is used for affordable housing.

The cost of housing is skyrocketing and the inventory to level out prices is not, this bill will make that problem worse. While we are supportive of increasing funds for HIF and capital projects, we are talking at a minimum 50 percent increases on the purchase price of a home.

Raising recordation taxes will heavily impact affordability in an already constrained market. These costs are not included in a mortgage – they are due at closing. While buyers are struggling to afford down payments, adding to their closing costs will push young families and others looking to put down roots here into neighboring jurisdictions.

These two proposals – the FY24 Operating Budget and Bill 17-23 – will likely serve as bellwethers for the direction this Council wants to take the county in the coming years. We urge you to choose fiscal responsibility and the long term financial health of our county in your deliberations. We know the budget process is difficult, and appreciate the work you and your staffs put in over these many weeks.

MBIA understands the importance of increased funds to the capital budget and the housing initiative fund but these are not the solutions to addressing those needs. We ask for an unfavorable report on Bill 17-23.

gcaar.com

TESTIMONY OF THE GREATER CAPITAL AREA ASSOCIATION OF REALTORS® BEFORE THE MONTGOMERY COUNTY COUNCIL

Regarding 2024 Operating Budget & Bill 17-23, Recordation Tax Rates

April 11, 2023

2024 Operating Budget

My name is Avi Adler, and I come before you today on behalf of the Greater Capital Area Association of REALTORS® (GCAAR), and 12,000 REALTORS®, property managers, title attorneys, and other real estate professionals, to express our concerns regarding the County Executive's fiscally irresponsible Proposed FY24 Budget, including the 10 percent tax increase, as well as the recordation tax increases proposed by Councilmembers Mink and Jawando.

The budget document transmitted by the Executive and his staff is a story of contradictions. It makes multiple references to the possibility of a looming recession, our slowed economic growth, and the still felt pain of the pandemic. And in such an instance you would expect belt-tightening, reserve shoring, and future financial liabilities kept at a necessary minimum. Yet this budget patently rejects every single one of those measures. With a stunning level of tax supported expenditure – only reachable through the immense property tax increase that has been proposed – the Executive's proposed budget seems inconsistent with current economic landscape.

The County Executive will say that the budget this year is all about the schools. But frankly, we are tired of this false narrative. I want to take a moment to reiterate that, despite what is presented by proponents of the tax increase, we are not against funding public education, paying teachers, and ensuring our schools are safe. What we cannot abide is setting our County up for future financial burdens by further escalating Maintenance of Effort for a school system that isn't using the funds already appropriated to their full potential.

For example, the MCPS fund balances at the end of the fiscal year have grown from $2 million in 1997 to $88 million in 2022. While a system as large and complex as MCPS is expected to have unused funds, the exponential growth in these surpluses seem to correlate with leftover funds from what is budgeted for instructional salaries. 7 percent of the instructional salary budget was leftover in 2021, and in 2022 it was 8.3 percent. This is more than 4 times the instructional salary funds leftover between 2004 and 2020 - an average of only 1.8 percent. It seems inconsistent that the school system would need hundreds of millions more appropriated while ending each year with tens of millions in unused funds.

As Montgomery County sits at negative 1 percent job growth and negative total employment year after year, we also cannot side idly by while the Executive further burdens taxpayers with an expansion of our already immense County government. In the proposal sitting before the Council, County government's tax supported budget would grow by nearly $170 million versus FY23's approved budget, an increase of 8.9%. Comparing our county to neighboring Maryland counties, Howard County and Frederick County have nearly identical per capita staffing levels across their county governments. But when looking at compensation, our county government payroll per capita is 15 percent higher than Howard and 29 percent higher than Frederick. One might think that cost of living explains such a gap – but a 2019 dataset from Maryland Department of Commerce shows that the cost of living index for Howard County (131.6) is actually *higher than* Montgomery County (130.4), with Frederick only 11% lower (116.4).

Rockville Office: 15201 Diamondback Road Suite 100, Rockville, MD 20850 | 301.590.2000
DC Office: 1615 New Hampshire Avenue NW Floor 3, Washington, DC 20009 | 202.626.0099

During his budget press conference, the County Executive continued to push the claim that Fairfax County taxes are lower than ours, and therefore it would be a flight of fancy to see residents or businesses – current or prospective – go there instead. But, based on a review of audited financial statements for Montgomery County and Fairfax County, our tax burdens per capita were nearly 14% higher for both FY22 and FY21. The difference is even more stark when looking at taxes only – on a per capita basis, combined Maryland state and local tax burdens are 30 percent higher than those in Virginia. Their employment growth was 60 percent between 1990 and 2016, while Montgomery County's was 21%. The business community has been raising the red flag for years but has been largely ignored as county government and its liabilities expand.

A government budget during times of economic stagnation is a public show of its priorities. But this proposed budget doesn't make hard decisions on what to fund and what to delay. Instead of setting priorities it gives out additional funding across the board and puts the onus on residents through tax increases to foot the bill. Put simply, if everything is a priority, then nothing is a priority.

Bill 17-23, Recordation Tax Rates

We also need to express our strong objections to Bill 17-23, Recordation Tax Rates.

In the bill's introduction packet, a chart from Maryland Department of Legislative Services is cited showing Montgomery County's recordation tax rates in the mid-range of all Maryland counties. What the packet leaves out - what appears on the same page - is a chart showing per capita revenue. We suspect it is left out of the packet because it shows only Frederick County with a higher per capita revenue, adding important context to the discussion. Frederick County also does not have a transfer tax. When recordation *and* transfer tax revenue per capita is compared, Montgomery County comes in much higher.

The fact is that our lower-than-our-neighbors tax rates keep us competitive in the region. Why? Because our property values are significantly higher.

Raising recordation taxes will heavily impact affordability in an already constrained market. These costs are not included in a mortgage – they are due at closing. While buyers are struggling to afford down payments, adding to their closing costs will push young families and others looking to put down roots here into neighboring jurisdictions.

I sat at this very table before the Planning, Housing, and Parks Committee a few weeks ago to share the troubling situation regarding affordability. We hope that instead of raising costs of closing on a home, the Council will approach this issue to break down the barriers to homeownership in our county.

When the real estate marketplace contracts, real estate professionals see a reduction in their ranks. And our industry is an integral part of the local economy. According to the United States Bureau of Economic Analysis, the employment multiplier for real estate in Montgomery County is 1.44. This means that each new job in real estate has the effect of creating an additional 0.44 new jobs in other industries. The multiplier for rental and leasing services? 2.20.

Aggressively raising the different rates by magnitudes of 60 percent, 50 percent, and 100 percent will drive prospective residents to our neighboring jurisdictions, hasten the overall decline in Montgomery County employment, and worsen our already slowing economic outlook.

The proposed FY24 Operating Budget and Bill 17-23 will likely serve as bellwethers for the direction this Council wants to take the county in the coming years. Instead of asking residents to shoulder the responsibility of massive budget increases, we urge you to choose fiscal responsibility and the long-term financial health of our county. We know the budget process is difficult and appreciate the work you and your staffs put in over these many weeks. Please do not hesitate to reach out if myself or our association can be helpful in any way.

April 11, 2023

SUMMARY OF KEY ISSUES IN THE FY24 RECOMMENDED OPERATING BUDGET

FY24 RECOMMENDED BUDGET OVERVIEW

Montgomery County Executive Marc Elrich has proposed a $474 M increase in the tax supported budgets for County Government and its agencies.

- The tax supported budget of County Government would increase by 8.9%, while the tax supported increase for MCPS is 10.7%.
- The increase in non-property tax revenue is only $9.4 M. Property tax revenue would increase by $274 M, but only about $51 M of that is from increased property values, with $223 M coming from a rate increase. The remainder of the budget increase is funded with of $159.3 M of fund balance, an increase of $92 M in State Aid, and increased investment income of $33 M due to interest rates.
- Based on the budget and 6-year plan as submitted, we are to assume a FY24-FY25 increase of $158.2 M in tax supported revenue. But the annualized impact of FY24 proposed changes to compensation for County Government employees is approximately $100 M before any additional changes to compensation and benefits, increases to the budgets of MCPS or other agencies, etc.
- By the end of FY25, the General Fund Undesignated Reserve will have a fund balance of $6 M, or about $200 M less than the level required by the County's fiscal and reserve policies.
- Given the above, it is likely that an additional tax increase will be likely at some point during the next three years.

MONTGOMERY COUNTY TAXES AND TAX FUNDED COMPENSATION ARE ALREADY TOO HIGH

Compared to its regional peers and neighbors, tax burdens in Montgomery County are high.

- In FY2022, per capita tax burdens in Montgomery County were 13.75% higher than in Fairfax County, VA (Annual Financial Reports).
- From 2011 to 2021 average annual salaries of local government workers in Montgomery County were, on average, 7.6% higher than those in Fairfax County, VA and 10.9% above those in Howard County, MD. (Bureau of Labor Statistics).
- According to the Census Bureau, full time payroll per capita is much higher in Montgomery County than in Fairfax (-10.5%) and Howard County (-11.3%) despite that both of those peers have larger workforces (+1.7%) per capita. (Annual Survey of Public Employment and Payroll – March 2021).
- Full time payroll per full time worker is also much higher in Montgomery County - 12.0% higher than Fairfax County, and 12.7% higher than Howard County.

MONTGOMERY COUNTY'S ECONOMY IS CONTRACTING

Taxation adds to the headwinds facing Montgomery County businesses.

- From 2017 to 2021, private sector economic output *declined* by an average of 1.0% per year after adjusting for inflation; in Fairfax County, real private sector GDP increased at an average rate of 3.7%/yr (Bureau of Economic Analysis).
- Wage and salary employment (regular jobs) in Montgomery County *declined* by an average of 0.9% per year from 2017 to 2021, while increasing at an annual average rate of 0.7% per year in Fairfax County. (BEA).
- Nonfarm proprietor income, the income earned by business owners, *decreased by an average of 14.0% per year* (it was up 6.8% per year in Fairfax County). From 2017 to 2021, business proprietors' income fell from 17.0% of personal income to 8.5% of personal income in Montgomery County (BEA).

REJECT THE COUNTY EXECUTIVE'S BUDGET

The Council must lead the county to a more sustainable fiscal future.

- County government currently has *more than 1,100 vacant positions*, with budgeted personnel costs of *more than $100 M*. Eliminating vacancies is how the County weathered the Great Recession.
- Millions of dollars in potential savings can be found in the recommended budgets of departments such as the Board of Elections, Environmental Protection, Office of Human Resources, Public Libraries, Utilities, and more.
- The budget includes 170 new positions at an estimated FY24 cost of $11.9 M. Reducing new positions is a time-tested approach to balancing budgets.
- The County underestimated the January income tax distribution ($70 M estimated versus $230 M actual), and in February the income tax distribution exceeded February 2022. As such, it is unclear why the County "wrote down" income tax revenue after the December revenue update.
- The MCPS budget request includes a placeholder for roughly $200 M in additional compensation, though just 6 months ago MCPS informed the Council that it had excess appropriations for salaries of $22.4 M (instructional, special ed, and mid-level administration salaries).

**Full text of this white paper available to Councilmembers and staff upon request.*

County or City	Recordation Tax Rate	County Transfer Tax Rate
Allegheny County	7/1000	0.50%
Anne Arundel County	7/1000	1.00%
Baltimore City	10/1000	1.50%
Baltimore County	5/1000	1.50%
Calvert County	10/1000	None
Caroline County	10/1000	0.50%
Carroll County	10/1000	None
Cecil County	8.20/1000	0.50%
Charles County	10/1000	0.50%
Dorchester County	10/1000	0.75%
Frederick County	14/1000	None
Garrett County	7/1000	1.00%
Harford County	6.60/1000	1.00%
Howard County	5/1000	1.00%
Kent County	6.60/1000	0.50%
Montgomery County	a. 8.90/1000 on 1st $500K b. 13.50/1000 when above $500K	1.00%
Prince George's County	5.50/1000	1.40%
Queen Anne's County	9.90/1000	0.50%
St. Mary's County	8.00/1000	1.00%
Somerset County	6.60/1000	None
Talbot County	12/1000	1.00%
Washington County	7.60/1000	0.50%
Wicomico County	7/1000	None
Worcester County	6.60/1000	0.50%

Memorandum

To: Government Operations and Fiscal Policy Committee
CC: Councilmember Kristin Mink
From: Councilmember Kate Stewart, Councilmember Natali Fani-Gonzalez, Councilmember Sidney Katz
Date: 4/20/23
Re: Bill 17-23 Recordation Tax Amendments

On Monday, April 24, 2023, the Government Operations and Fiscal Policy Committee will hold a work session on Bill 17-23, Taxation – Recordation Tax Rates - Amendments. Ahead of this session, our teams have been working with Council staff on an alternative option and an amendment to this legislation.

<u>Our goals for this alternative to the proposed amendment:</u>

- Fix our ongoing structural challenges with the CIP budget, especially how we fund school construction;
- Not impact starter and affordable homes by maintaining current rates for homes sales of $600,000 or less;
- Put in place a progressive **one-time** tax for home purchases of more than $600,000;
- Address the current FY24-28 CIP shortfall;
- Fund school construction in recognition of the vital need in our communities, especially with increasing enrollment projections, and its importance to our economic development; and
- Enhance housing stability by increasing funds for rental assistance.

<u>Background:</u>

In the fall of 2020, the Maryland National Capital Park and Planning Commission made recommendations to the County Council for the Montgomery County 2020-2024 Growth and Infrastructure Policy (formerly known as the Subdivision Staging Policy). As part of these recommendations, the Planning Board offered a bill to increase the recordation tax in tandem with the removal of impact taxes in certain areas. While the Council decided to move forward with the removal of impact taxes, the recordation tax recommendation was not moved by the Planning Housing and Economic Development Committee or passed by the County Council. Part of the shortfall in the CIP the county is now experiencing is due to the fact that the Council did not pass the second part of the recommendation from the Planning Board in the form of an amended recordation tax.

The recordation tax is a **one-time cost** incurred as part of closing costs for a real estate transaction based on the cost of the property. Under the current law, the first $100,000 of cost is tax exempt. Further, for each $500 of the sales price that exceeds $100,000, $2.08 goes to the County's General Fund and $2.37 goes to the MCPS CIP. In addition, for each $500 that exceeds $500,000, $2.30 is split evenly between the County's CIP and rental assistance (See chart below).

Other important considerations:
The median sale price for Montgomery County homes as of March 2023 was $532,000. With one brief exception, the median price of homes has stayed below $600,000 for the last 5 years. Had the council passed the Planning Board recommendation in 2020, revenue for the CIP from the recordation tax would have been about $50M. The current shortfall in the CIP is $207.5M. Without identifying new sources of revenue, the county will face continued lack of funding for school construction, infrastructure, and other critical county projects.

Proposals:
Councilmember Mink has proposed Bill 17-23 which amends the recordation tax to increase the amounts levied during certain home purchases to meet unfulfilled demand for school and county construction projects.

Under CM Mink's proposal, the "base" recordation rate would remain the same at $2.08 per $500 over $100,000; the school increment rate would be increased from $2.37 to $3.79 per $500 over $100,000; the recordation tax premium rate would be raised from $2.60 to $3.45 per $500 over $500,000; and a new premium would be included in Councilmember Mink's bill that would be $4.60 per $500 over $1,000,000 in home cost (See chart below).

Based on the goals we set for the best path forward, we would like to amend the bill to keep the exemption for amounts under $100,000, keep the base rate of $2.08 per $500 and the school increment rate at $2.37 per $500 over $500,000, and keep the premium rate at $2.30 for homes valued between $500K and $600K. This alternate proposal would also include three new bands to create a more progressive tax structure, including increase the premium from $2.30 to $5.75 for home sales over $600,000, a rate of $6.33 per $500 of value between $750,000 and $1,000,000, and $6.90 per $500 of value over $1,000,000 (Please see the chart on the next page).

	Current law	Bill 17-23	Alternative proposal
Exemptions	• First $100,000 if principal residence	• First $100,000 if principal residence	• First $100,000 if principal residence
For each $500 that the price exceeds $100,000	• $2.08 to the county's general fund • $2.37 to the MCPS CIP	• $2.08 to the county's general fund • $3.79 to the MCPS CIP	• $2.08 to the county's general fund • $2.37 to the MCPS CIP
For each $500 that the price exceeds $500,000	• $1.15 to the CIP in general • $1.15 to rental assistance	• $1.725 to the CIP in general • $1.725 to rental assistance	• $0.7667 to the CIP in general • $0.7667 to the MCPS CIP • $0.7667 to rental assistance
For each $500 that the price exceeds $600,000	• $1.15 to the CIP in general • $1.15 to rental assistance	• $1.725 to the CIP in general • $1.725 to rental assistance	• $1.9167 to the CIP in general • $1.9167 to the MCPS CIP • $1.9167 to rental assistance
For each $500 that the price exceeds $750,000	• $1.15 to the CIP in general • $1.15 to rental assistance	• $1.725 to the CIP in general • $1.725 to rental assistance	• $2.11 to the CIP in general • $2.11 to the MCPS CIP • $2.11 to rental assistance
For each $500 that the price exceeds $1,000,000	• $1.15 to the CIP in general • $1.15 to rental assistance	• $0.575 to the CIP in general • $0.575 to rental assistance	• $2.30 to the CIP in general • $2.30 to the MCPS CIP • $2.30 to rental assistance
Projected total new revenue above current (Finance est.)	**$0**	**$260.6 million**	**$196.4 million**
Projected CIP gap or surplus	**$207.5 million gap**	**$53.1 million surplus**	**$11.1 million gap**
Total increase for Rental Assistance	**$0**	**$59 million**	**$54.5 million**

With the plan we are suggesting, a home buyer (with the first $100,000 continuing to be tax exempt from the base and school increment), will not see an increase in their purchase unless the purchase price is above $600,000. This plan ensures buyers of starter and affordable homes are not overly burdened with this **one-time cost** and we meet the needs of the Montgomery County Public Schools CIP and the Montgomery County CIP budgets. Our current way of funding the CIP is not sustainable and we are far beyond a band-aid approach. This approach would also put in place a more progressive structure for the future.

In addition, by adding funding for rental assistance to the recordation tax we are creating an ongoing funding source for rental assistance, which will assist in ensuring housing stability in our communities.

2022
Montgomery County, MD

Sold Summary

	2022	2021	% Change
Sold Dollar Volume	$8,145,399,964	$9,927,153,800	-17.95%
Avg Sold Price	$689,950	$646,986	6.64%
Median Sold Price	$555,000	$530,000	4.72%
Units Sold	12,076	15,672	-22.95%
Avg Days on Market	18	18	0.00%
Avg List Price for Solds	$675,030	$634,369	6.41%
Avg SP to OLP Ratio	101.4%	101.6%	-0.27%
Ratio of Avg SP to Avg OLP	101.3%	101.4%	-0.14%
Attached Avg Sold Price	$426,461	$407,163	4.74%
Detached Avg Sold Price	$941,621	$872,776	7.89%
Attached Units Sold	5,899	7,598	-22.36%
Detached Units Sold	6,177	8,073	-23.49%

Financing (Sold)

Assumption	7
Cash	2,269
Conventional	8,396
FHA	681
Other	187
Owner	1
VA	468

Days on Market (Sold)

0	401
1 to 10	6,919
11 to 20	1,586
21 to 30	839
31 to 60	1,216
61 to 90	538
91 to 120	258
121 to 180	190
181 to 360	112
361 to 720	16
721+	1

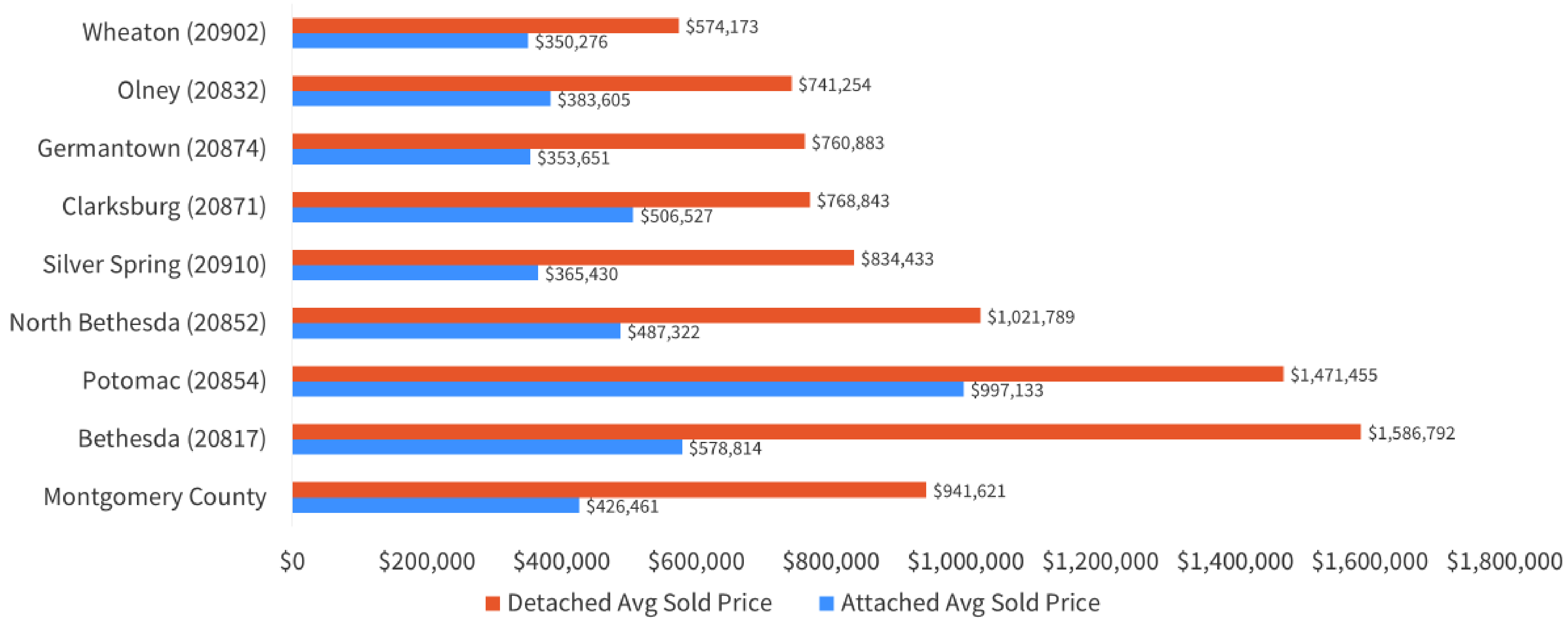
Notes:
- SP = Sold Price
- OLP = Original List Price
- LP = List Price (at time of sale)
- Garage/Parking Spaces are not included in Detached/Attached section totals.

Sold Detail

	Residential						Condo/Coop
	2 or Less BR		3 BR		4 or More BR		All
Price Ranges	Detached	Attached/TH	Detached	Attached/TH	Detached	Attached/TH	Attached
< $50,000	0	0	0	0	0	0	1
$50K to $99,999	0	0	0	0	1	0	20
$100K to $149,999	0	3	0	0	0	0	168
$150K to $199,999	0	12	1	5	0	0	484
$200K to $299,999	3	84	8	51	0	9	1,033
$300K to $399,999	27	93	62	560	17	84	665
$400K to $499,999	38	33	263	508	226	143	389
$500K to $599,999	20	10	368	349	636	105	153
$600K to $799,999	33	8	328	278	1,335	143	142
$800K to $999,999	9	3	116	70	869	72	55
$1M to $2,499,999	9	4	112	40	1,535	71	43
$2.5M to $4,999,999	0	0	2	0	147	0	8
$5,000,000+	0	0	0	0	12	0	0
Total	139	250	1,260	1,861	4,778	627	3,161
Avg Sold Price	$584,380	$360,239	$647,482	$499,276	$1,029,599	$660,445	$342,418
Prev Year - Avg Sold Price	$524,783	$313,831	$617,616	$470,187	$949,012	$589,545	$334,221
Avg Sold % Change	11.36%	14.79%	4.84%	6.19%	8.49%	12.03%	2.45%
Prev Year - # of Solds	173	329	1,636	2,526	6,264	852	3,891

(38)

Average Sold Price by Type in Submarkets (2022)



Source: Bright MLS