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IN OPPOSITION OF
HOUSE BILL 174

Ways and Means Committee
Maryland House of Delegates
House Office Building
Room 131
Annapolis, Maryland 21401

RE: House Bill 174 – “Requiring a taxpayer, when filing an appeal to the Maryland Tax Court of a property tax assessment for income-producing property valued greater than \$5,000,000, to pay a \$100 nonrefundable fee to the Maryland Tax Court.”

Dear Members of the Committee:

I respectfully submit this summary in opposition to House Bill 174.

PROFESSIONAL BACKGROUND AND QUALIFICATIONS

- Past Chair of the Tax Section of the Maryland State Bar Association (Chair 2006-2007)
- Author of the Maryland Chapter of the American Bar Association’s (ABA), The Property Tax Deskbook, for all 28 editions (1996-2023)
- Author of the Real Property Tax Chapter of Maryland Taxes, Maryland Institute for Continuing Legal Education (MICPEL/MSBA)
- Sole Maryland Member of National Association of Property Tax Attorney’s (NAPTA)
- Attorney concentrating his firm’s practice (for over 30 years) to representing Maryland Commercial and Residential property taxpayers before SDAT, Property Tax Assessment Appeals Boards and the Maryland Tax Court; Representations range from large malls, office buildings, factories, R&D facilities, apartments etc. to single family residences; Representative Property Assessed Values range from \$50,000 to \$500,000,000
- Resident of Baltimore County

ARGUMENTS IN OPPOSITION HOUSE BILL 174

I. The Maryland Tax Court did not initiate this bill, it was initiated by SDAT (Department of Assessments and Taxation). The Tax Court's Rules of Procedure contained in COMAR Regulation 14.12.01.01.B states "There shall be no fee for filing a Petition in the Court." If the Tax Court found it necessary to impose filing fees, then it has the power to do so itself by imposing fees in its promulgated Rules of Procedure. House Bill 174 appears to be an end run around that power.

Passage of this Bill requiring a \$100 filing fee will reverse the Maryland Tax Court's longstanding position of not imposing a filing fee which would discourage Taxpayers from challenging their assessments by placing a barrier on the legal right of Taxpayers' to challenge their assessed values. By imposing a fee on the right to appeal to the Maryland Tax Court, the Bill's consequences will be to discourage Taxpayers from appealing their property assessments. A Taxpayer should not have to pay a fee to exercise a legal right. The General Assembly should enact laws that protect and enhance Taxpayers' Legal Rights and not enact laws that places limitations and burdens on those Legal Rights. The assessment system in Maryland has long taken the position to protect the Taxpayers' appeal rights and goes to great lengths to makes sure a Taxpayer's appeal rights are not limited. **Notably, the Tax Court did not initiate this bill, SDAT did.** The Tax Court has never imposed a filing fee and has made a deliberate effort to not do so. The Tax Court has historically believed the ability of a Taxpayer to appeal their assessment should be easily accessible and not hindered. **If the Tax Court found it necessary to impose filing fees it has the power to do so itself by imposing fees in its promulgated Rules of Procedure. House Bill 174 appears to be an end run around that power.**

II. House Bill 174 only affects Income Producing Real Property Appeals Assessed Over \$5,000,000 and Does Not Apply to The Numerous Other Type of Tax Court Appeals

If this Bill passes, only Real Property Tax Appeals that are income-producing property valued greater than \$5,000,000 would have a fee imposed while all other Tax Court Appeals would not have a fee. **Other Tax Court Appeals not subject to the fee will include: Personal Property Tax Appeals, Sales & Use Tax Appeals, Income Tax Appeals, Transfer/Recordation Appeals, Real Property Tax Appeals that are income-producing property valued at or less than \$5,000,000, Real Property Appeals that are Non-Income Producing Commercial/Industrial Properties, Residential Real Property Appeals, etc. This is inconsistent and discriminatory.**

III. Constitutional Problem:

Article 15 of the Declaration of Rights of the Constitution of Maryland provides “that the General Assembly shall, by **uniform rules**, provide for the separate assessment, classification and sub-classification of land, improvements on land and personal property.” (Emphasis added). Income Producing Commercial and Industrial Property assessed over \$5,000,000 is not a separate classification of property from Residential Property or Commercial/Industrial Property assessed at or under \$5,000,000 and is not uniform. Income Producing Commercial/Industrial property assessed over \$5,000,000 should not and cannot be taxed, assessed, or **charged a filing fee** under different laws than residential properties or Commercial and Industrial Property assessed at or under \$5,000,000. **Doing so provides preferential treatment to residential properties & Commercial and Industrial Property assessed at or under \$5,000,000 and is not uniform.**

IV. House Bill 174 Arbitrarily Discriminates against Income Producing Commercial/Industrial property owners with values over \$5,000,000.

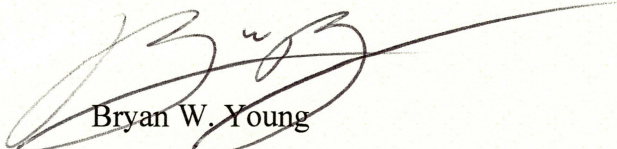
Further, there is no difference between a \$4,950,000 commercial/industrial property (not subject to the fee) and a \$5,050,000 one (subject to the fee). Moreover, imposing the fee on only income producing commercial/industrial property assessed over \$5,000,0000 is discriminatory and arbitrary at the expense of commercial/industrial property owners assessed over \$5,000,0000 and to the benefit of residential property owners and commercial/industrial property owners valued at or less than \$5,000,000.

V. Many Commercial/Industrial Properties Assessed over \$5,000,000 are made up of Multiple Parcels/Tax Accounts Resulting in Multiple \$100 Filing Fees for a Single Commercial/Industrial Complex:

Not all properties are made up of one tax account/parcel. For example, many apartment complexes, shopping centers and office complexes are made up of multiple accounts. To this point I represent an apartment complex in Baltimore City that is made up of 7 tax accounts/parcels that when the assessment is appealed, all 7 tax accounts/parcels are appealed. Under this bill that Taxpayer would be required to pay a \$700 fee for a Tax Court Appeal. This is onerous and an impairment to the Taxpayer’s right to contest the assessment.

For the reasons outlined above, I respectfully oppose the passage of House Bill 174. I want to thank the Committee for their consideration.

Very truly yours,



Bryan W. Young

BWY/dd