



Testimony of Ron Tabaczynski before the Senate Revenue Committee Hearing on Senate Bill 1379

March 6, 2019

Thank you Madam Chairman and members of the Committee. I am Ron Tabaczynski, Director of Government Affairs for the Building Owners and Managers Association of Chicago (BOMA/Chicago). We represent 238 commercial office, institutional and government buildings in the City of Chicago. Our member buildings house over 12,733 businesses and approximately 413,000 workers. Combined they contribute \$4.6 billion into the economy and pay over \$1 billion annually in property taxes.

Initially, on behalf of BOMA/Chicago, I would like to thank Assessor Kaegi for sincerely engaging our organization over the last several months in a substantive discussion of this legislation and for his willingness to consider amendments to address our concerns. We share a great deal of common ground with the Assessor about the need to improve the assessment system, especially in Cook County.

We do not, however, entirely agree on how best to do that. The Assessor has stated that if you want to fix a broken assessment system, this is where you would start. We would argue that in Cook County you would start with addressing the classification system and the state equalizer, but I realize that is not a discussion for this day. In the meantime, I will kindly refer you to a letter that BOMA/Chicago has shared with the Assessor regarding this legislation and which I have attached to my written testimony.

For now, I will confine my remarks to the specifics of this legislation. Some of our concerns with the introduced bill, particularly the scale of the monetary penalties, have been somewhat addressed in the amendment. We do have remaining concerns about privacy and security issues, and about the availability and use of the data that our members would be asked to submit.

We understand that the Assessor's goal in collecting income and expense data is to use it to create a database for the development of capitalization rates that, along with other factors, will be applied to the mass appraisal process. It is not to collect and use the data to determine an individual building's valuation, as happens in the appeal process.

Unfortunately, submitting mandatory financials does not provide a narrative of operations. There are changes in the market, capital and tenant acquisition costs, and operational events that occur but are not reflected in the financials. There are also lease terminations, changes in use, and even bankruptcies that are not easily observable in the financials but certainly have an effect on value.

By mandating building income performance data, the emphasis on financial information seems to be moving the assessment process away from adherence to valuation based on market rents to valuation based on contract rents.¹ The appeal process and the Circuit Court have already established that Illinois is a market rent valuation state, and not a contract rent valuation state. We feel that there is some additional dialogue that should occur on this point, as we do not want to create a system where assessing officials and those who adjudicate assessment appeals are using two different valuation concepts for the same taxable properties.

Additionally, we are concerned about the use of the data that income producing properties would be required to submit. We have been told the data will be "anonymized," but the legislation is silent on the issue and we are not sure how this will be accomplished. At one level, this legislation will be making the process more transparent, but allowing the collection and processing of data "anonymously" potentially legislates a kind of "black box" approach to the assessment process which could be even less transparent than the system that we have now. We certainly do not believe that is the intent of this legislation, but without a good understanding of how the legislation will be implemented the uncertainty remains a concern for us.

¹*Contract Rent* is the actual rental income specified in a lease. *Market Rent* is the rental income that a property would probably command in the open market; indicated by the current rents that are either paid or asked for comparable space as of the date of the appraisal.

Lastly, the security of proprietary business data collected electronically is also a concern that we cannot understate. The legislation makes the data exempt from FOIA and allows the Assessor only the ability to report data in aggregate. Data systems, including those operated by private organizations with deep financial resources to invest heavily in network security have been successfully breached with alarming frequency. We cannot imagine a municipal computer network having the same high-level security.

In closing Madame Chairman, while we agree that there is merit to modernizing data collection, we hope that the Committee will also recognize that there is a great potential for sudden changes in assessment practices to cause unintended and unforeseen shifts in tax burdens. Those shifts can occur between and within different real estate classes and across neighborhoods, and they will create hardships for some taxpayers. I would encourage the Committee to move carefully and deliberately on this legislation and endeavor to gain some understanding of what the impact will be so that there is time to prepare taxpayers, fiscal bodies, the business community and others for what may result. As policymakers with an understanding of the impact, you may be able to mitigate some of the adverse results in advance rather than in response to a crisis.

Thank you.

For More Information Contact:

Ron Tabaczynski

Director of Government Affairs
Building Owners and Managers Association of Chicago
115 S. LaSalle, Suite 2300
Chicago, IL 60603
(312) 870-9611

rtabaczynski@bomachicago.org

www.bomachicago.org

