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Testimony of the Boston Municipal Research Bureau

Before the

City Council's Committee on Economic Development and Transportation

May 23, 2000

Regarding: Proposals To Change Boston's Linkage Legislation

The Research Bureau is pleased to testify today before the City Council's Committee on Development and Transportation on the matter of possible changes to the existing linkage legislation. [Docket # 0482 – An Act Authorizing Certain Amendments To The Housing And Employment Exaction Requirements (Linkage) With Respect To Large-Scale Commercial Real Estate Development] In 1998, the Bureau released a comprehensive report on Boston's linkage program and offered a new approach to manage linkage funds for housing and job training. We have worked closely with the Menino Administration and the Neighborhood Housing Trust and feel confident that some changes can be made to improve the benefits of linkage for housing and job needs in Boston. However, we also believe that linkage should be put in proper perspective and it should be recognized that a balance must be realized to support valuable programs while not negatively affecting commercial and housing development in the City. What that means is that linkage cannot be the sole vehicle for solving the housing crisis that exists in Boston today. We think that the proposal to increase the linkage fees should be tied to changes on two related fronts: (1) improved administration of the linkage program and (2) a lessening of the demand for payments beyond the linkage agreement. Finally, changes in the linkage program should be considered in the context of Boston's heavy reliance on business property for a predominate share of the City's property tax revenue.

The Mayor has submitted to the City Council a home rule petition (Docket #0482) to increase the housing linkage fee from \$5.00 per sq. ft. over 100,000 sq. ft. to \$7.18 per sq. ft., an increase of 44%. The Jobs linkage fee would increase from \$1.00 per sq. ft. to \$1.44 per sq. ft. for a total of \$8.62 per sq. ft. The Mayor is proposing a home rule petition to amend Chapter 371 of the Acts of 1987, the linkage enabling legislation, because under existing law, the City's Zoning Commission would only be able to approve an increase that did not exceed a combined CPI index over the prior 36 months. That increase would be less than 10%. However, amending Chapter 371 opens the door for other proposed changes that could have far reaching implications if approved.

In response to Docket #0482, the Bureau makes the following recommendations:

1. The Bureau supports the increase in linkage fees proposed in this petition as an appropriate course of action at this time provided that management improvements are made in the administration of the linkage program. This increase essentially reflects an inflationary adjustment that could have occurred legally at any time from 1987 forward. Additionally, the Bureau proposes that the Mayor's home rule petition be amended to include language that clearly states that any current development projects already in the pipeline would be exempt from the new requirements. The current legislation (Chapter 371) carries this provision regarding anything over the \$5 increase. However, as a point of clarity, we recommend that the language below be included in the new section 16A and 17A.

No such increase shall apply to any new large-scale commercial real estate development for which an application for a conditional use permit, exception, zoning map or text amendment or variance has been filed with the appropriate governmental authority prior to the effective date of such increase or for which

an application for a planned development area has been filed with the BRA prior to the effective date of such increase, whichever occurs first.

2. The proposal to increase the linkage fees should be tied to improved administration of the linkage program. In 1998, the Bureau released a report on Boston's linkage program that outlined problems and made recommendations for improvement. The Administration has made improvements in several areas, but more must be done to ensure that the linkage program is efficiently managed. Any increase in fees should be tied to administrative improvements to give confidence that the linkage program is managed efficiently and that all linkage funds are spent responsibly to meet the real housing and job needs of Boston. Recommendations for administrative improvements include:

(1) The BRA should assume responsibility for overall management of the linkage program. The BRA should coordinate the linkage work of four key departments, facilitate communication among departments, monitor the Development Impact Project (DIP) agreements and provide assistance to the NHT and NJT and insure they are meeting the requirements

(2) A policy manual that clearly delineates the responsibilities of each department involved in the linkage program should be completed in the next 60 days.

(3) An improved process for exchanging building and occupancy permit data needs to be established using the City's new financial management system. These dates are key triggers for the payment process.

(4) The BRA should be responsible for tracking housing creation projects and deposit any up-front funds in an escrow account in accordance with procedures established by the City's Chief Financial Officer. The BRA should provide the NHT and CFO with quarterly reports specifying all funds received and expended and the purpose of these funds as well as delinquencies or projects that were terminated.

(5) The City should develop a comprehensive housing policy to set the direction for all housing funds, including linkage revenues.

(6) The City should push to include in its new computerized financial package a feature to allow for the financial management of the Trusts as well as including mechanisms to facilitate the exchange of linkage data among departments.

(7) The Administration should comply with the requirements of Chapter 371 regarding the Council's role in accepting and approving linkage funds.

3. Any increase in linkage fees should be balanced with a lessening of the demands of the City and neighborhood groups for payments and exactions beyond linkage. These extra requests beyond the DIP agreement before final approval of the project is granted have become excessive and should be checked before needed development is discouraged. Contributing to this problem in the waterfront area is the interim height limit of 150 feet established by the BRA that can only be exceeded if developers "propose public realm and community benefits that allow them to earn their way above the base height."

Other Proposals

In addition to the Mayor's home rule petition, the Council has been asked by housing advocates to consider three other proposed changes to the linkage program. From a preliminary review of these proposals, the Bureau is concerned that the first two changes have the potential to constrain future development as well as housing production. Furthermore, these proposals attempt to solve the housing crisis by targeting just a small segment of the economic community.

These proposals should be viewed in the context of Boston's heavy reliance on business property for a predominate share of the City's property tax revenue. In the current fiscal year, business property was

valued at \$17.7 billion and represented 44.3% of total taxable value. However, through full use of classification, the business property pays 70% of the City's property tax levy. Conversely, residential property represents 55.7% of the value but pays only 30% of the tax levy. Commercial property alone in the three downtown Wards of 3,4 and 5 represents 30.2% of total taxable value and pays 47.6% of the total tax levy this year. In this light, the City should be very careful about imposing added burdens that could constrain future development and future property tax revenues.

The Bureau's response to the individual linkage proposals follow.

1. **Reduction in pay period for linkage** – Reducing the pay period from 7 years to 2 years would place undue burden and possibly constrain housing development. Requiring this money to be paid up front during the critical stages of financing a development project increases the financial burden on developers and makes it more difficult for a project to receive support and move forward. The Bureau does not support this proposal.

2. **Limit the exemption for the first 100,000 sq. ft.** – The exemption of the first 100,000 sq. ft. should not be considered. This is not a loophole in the law, but a provision of the law. Essentially, this change would unfairly impact only large developments and not keep those developments on the same level playing field as other projects.

3. **Inclusionary zoning funds to go to NHT.** - The inclusionary zoning funds have different standards and may not be able to be merged with linkage funds. Furthermore, the allocation of funds may be achieved through a change in the Declaration of Trust as well as changes in the Rules and Regulations of the NHT rather than needing to amend Chapter 371. A process for managing the inclusionary zoning funds has not been developed as yet. These funds come with strings attached and may need to be administered differently than linkage funds. The Bureau agrees that an overall approach to managing housing funds is needed so that benefits are maximized. However, this recommendation needs more analysis to determine if the NHT is the appropriate vehicle to manage inclusionary zoning funds.

Conclusion:

The proposed increase in the linkage payments and the provision of \$26 million in one-time funds represent a substantial move forward in the City's housing commitment. The Administration should focus on developing a comprehensive housing policy to determine how these funds should be allocated before considering other changes at this time. The Bureau will continue its commitment to housing in Boston through its ongoing work with linkage and other housing programs.