



How You Can Bring Meaningful Affordable Housing Tax Incentives to Your Community

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The moniker “affordable” and “workforce” housing can mean different things to different stakeholders. Most will agree that localities and states have recognized a need to provide reasonably priced homes for our workforce and citizens. When people live close to their job, schools, and population centers, the benefits to infrastructure, resources, mobility, and the environment are clear. Conversely, when so many people want to be close to the action, local governments find it difficult to craft meaningful incentives to promote developing affordable homes in a hot area.

The City of Greenville has enacted an ordinance and structure that utilizes existing South Carolina law to provide significant tax incentives for developers who choose to invest in affordable housing. Greenville used Sections 4-9-195 and 5-21-140 of the South Carolina Code of Laws, commonly known as the “Bailey Bill” so that developers can receive a uniform property tax assessment for up to twenty years.

The Bailey Bill has been around for some time and portions of the statute have been enacted by many counties and municipalities throughout South Carolina. Until Greenville adopted its ordinance, however, the Bailey Bill was used almost exclusively to encourage the rehabilitation of historic properties. In fact, the Bailey Bill provides detailed guidance and rules for a set tax assessment for historic buildings and neighborhoods. Nevertheless, the General Assembly failed to provide any guidance for the implementation of the portions of the Bailey Bill that allow for similar tax assessments for “low to medium income” housing. The affordable housing sections of the Bailey Bill appear to be a well-meaning but half-

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baked afterthought. As a result, without guidance, local governments shied away from the Bailey Bill as an affordable housing tool.

This changed in 2018 when a project in downtown Greenville provided the necessary motivation and opportunity. A forward-looking developer asked Greenville if the city would consider enacting a structure for the underutilized parts of the Bailey Bill. Working for the developer of the project, Burr & Forman attorneys approached the Greenville City Attorney with a unique plan. Using their combined knowledge of economic development incentives for business and industry under South Carolina's laws, the attorneys drafted a program whereby tax parcels are designated by the municipality to be subject to the Bailey Bill. Under the ordinance, a property owner provides the municipality with a demonstrated need, plan, and investment amount. The municipality will then make several negotiated determinations: (1) the tax parcels benefitting from the special assessment, (2) the time period for the special assessment, (3) the assessed value of the property, and (4) the criteria under which the property owner enjoys the special assessment. In essence, property tax assessments can be set for up to twenty years, allowing the property owner to recoup its investment in the property.

Greenville's elegant and streamlined approach to the Bailey Bill gives both the local government and the property owner an opportunity to jointly develop a plan that works for both parties. Importantly, the local government is able to meaningfully incentivize an investment in the community without resorting to cumbersome blanket mandates. Local governments should look into this option when implementing their plans to promote and provide affordable and workforce housing. The Greenville ordinance is simple, it is easy to understand, and it can be used by counties and municipalities.

We continue to be excited about the opportunity this tool can give to local governments, developers, and property owners. The work performed by Burr & Forman attorneys in crafting this simple and effective use of the Bailey Bill puts us in a great position to advise local governments when they create their own ordinance. As was done in Greenville, developers can bring this plan and idea to local governments to make their affordable housing projects viable. Please reach out to us so we can help introduce this use of the Bailey Bill in your community.