

**Communication File on Exempt Real Property and
PILOT information for
Finance & Personnel Committee**
(September 2019)

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2018 and 2019 Budget Footnotes from Finance & Personnel Committee

1. 2018 Budget Footnote:

Footnote for Assessor & DCD to develop plan to increase PILOTs from tax-exempt entities.

Insert a footnote in the Assessor and Department of City Development directing that the Commissioners shall work cooperatively with the Mayor and the Common Council to develop a plan and strategy to increase the number of Payments in Lieu of Taxes entered into by tax exempt entities. This plan and strategy shall be formally reported to the Common Council. It is necessary for the Common Council to adopt legislation to effectuate the intent of the footnote.

2. 2019 Budget Footnote:

Insert a footnote instructing the City Assessor to partner with the Information Technology Management Division and the Department of City Development to establish a website to facilitate enrollment in the City's PILOT program.

The City Assessor shall partner with Department of Administration and Department of City Development to establish website to facilitate in the City's PILOT program

City Departments involved with managing PILOTS

Assessor's Office – Implements Chapter 307-7 Fair Share Payment in Lieu of Taxes Program – attachment #1 and
- sample agreement – attachment #2

City Attorney's Office – Drafts PILOT agreements

Department of City Development – Negotiates PILOT agreements and develops agreements with property owners

Housing Authority of the City of Milwaukee – Creates PILOT agreements when new developments are started

Comptroller's Office – Sends out invoices to property owners

Treasurer's Office – Collects payments from property owners

PILOT and Exempt Property Background Information

1. What entities and what types of PILOT agreements are currently active within the City?
 - a) Development Agreements (often made in when a TIF District is established)
 - b) Housing Authority agreements (often made as terms of a sale)

- c) Agreements with other Governmental agencies (Milwaukee Water Works, Milwaukee Parking Fund)
- d) Fair Share Agreements
- e) City or MPS owned properties – agreements are typically created at time of sale
- f) University of Wisconsin Milwaukee – all UW schools make payments to the cities where the schools reside

2. How many entities are making PILOT payments to the City? (16)
3. How many tax-exempt parcels are included in these agreements? (46)

List of Entities Paying PILOTs								
	Entity	Agreement Type	# of Parcels	2015 Amount	2016 Amount	2017 Amount	2018 Amount	2019 Amount
1	Community Advocates, Inc. Project	Bond Issuance	1	\$ 34,100.64	\$ 32,275.62	\$ 35,679.25	\$ 35,915.75	\$ 35,847.15
2	Assisi Homes Jefferson Court, Inc.	Voluntary Agreement	2	\$ 63,936.00	\$ 63,936.00	\$ 63,936.00	\$ 63,936.00	\$ 63,936.00
3	MHAC State Street, Inc.	Voluntary Agreement	1	\$ 9,896.04	\$ 14,620.58			
4	UW Milwaukee Riverwest Student Housing	PILOT Agreement	1	\$ 51,000.00	\$ 51,666.80	\$ 52,545.14	\$ 53,701.13	\$ 54,882.55
5	UW Milwaukee Cambridge Commons Student Housing	PILOT Agreement	1	\$100,000.00	\$100,500.00	\$102,208.50	\$104,457.13	\$106,755.15
6	Wisconsin Humane Society, Inc.	Bond Issuance	1	\$ 1,862.47	\$ 1,845.08	\$ 1,869.43	\$ 1,869.43	\$ 1,841.60
7	Wisconsin Hispanic Scholarship Foundation, Inc.	PILOT Agreement	1	\$ 4,185.45	\$ 4,092.65	\$ 3,986.15	\$ 3,886.50	\$ 3,760.63
8	Hmong American Peace Academy	Land Contract	1	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
9	Bradley Center Corporation	Parking Agreement	1	\$172,669.75	\$167,438.30	\$166,047.80	\$162,702.16	
10	UW Milwaukee Zilber School of Public Health	PILOT Agreement	1	\$298,441.26	\$292,267.30	\$285,794.60	\$271,853.40	\$241,667.44

11	Cardinal Capital Management Cleveland Terrace	Cooperation Agreement	2	\$ 5,558.61	\$ 5,567.72	\$ 5,582.82	\$ 5,614.40	\$ 5,582.82
12	Cardinal Capital Management Main Street Gardens	Cooperation Agreement	6	\$ 9,641.67	\$ 9,708.06	\$ 10,142.94	\$ 9,797.05	\$ 10,142.94
13	Highland Community School, Inc.	Charter School	1		\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
14	City Reformed Church	Cooperation Agreement	1		\$ 5,398.53	\$ 5,448.80	\$ 5,585.03	\$ 5,615.82
15	Veterans Gardens	Developer Agreement	4		\$ 20,701.44	\$ 27,475.99	\$ 12,397.98	\$ 12,660.35
16	St. Ann's Center	Fair Share Agreement	1			\$ 3,964.44	\$ 1,982.22	\$ 1,982.22
17	MLK LLC	Developer Agreement	7					\$ 12,213.45
18	Milwaukee Rescue Mission	Developer Agreement	13					\$ 5,000.00
19	Wisconsin Center District	PILOT Agreement						
20	Westlawn							
Total			46	\$751,292.89	\$770,020.08	\$764,683.86	\$733,700.18	\$561,890.12

Payments Made	\$751,292.89	\$770,020.08	\$741,434.96	\$756,980.83	Not finalized
Balance Due	\$ -	\$ 0.00	\$ 23,248.90	\$ (23,280.65)	

4. How many PILOT agreements are being tracked (active, expired, not billed, and complete, etc.) by the city? **(61)**
5. How many tax-exempt parcels are there in the City?
(9,854 per the 11/26/2018 Assessment Roll)
6. What percentage of total parcels do the exempt parcels represent?
(6.2% in 2018)
7. How does the City of Milwaukee compare to other municipalities within the county?
The Public Policy Forum was contacted but no publications or reports are available on exemptions or PILOTS
8. For the 2018 assessment roll, what is the total (aggregate) land area of tax-exempt parcels in the City?

	Square Feet of Land Area	%	Valuation of Exempt vs Assessable Parcels	%
Exempt area	744,444,670.20	13.5%	\$4,723,565	14%
City Total	5,523,006,176.80	100.0%	Actual \$29,563,989,080 With Exempt \$34,287,751,645	100.0%

Description of existing Payment in Lieu of Taxes Agreements:

A **PILOT Agreement** is a contract between the tax-exempt property owner and the City that requires the property owner to make an annual PILOT payment. Typical examples are development agreements and terms of sale for RACM properties.

A **Payment in Lieu of Taxes (PILOT) payment** is a payment to the City of Milwaukee, made by the owner of tax-exempt property, which defrays all or part of the cost of municipal services to the property.

A **Fair Share Agreement** is a written agreement between a tax-exempt property owner and the City through which the property owner states its intention to voluntarily make a PILOT payment to the City.

PILOT Agreements

As of January 2019, the City had 21 PILOT Agreements with property owners. The City and property owners entered into these agreements for a variety of reasons.

- **PILOT Agreement may be a term of a development agreement connected to a Tax Increment District.** Half of Milwaukee's PILOT agreements are written into development agreements that affect privately-owned property within a TID. These PILOT Agreements trigger PILOT payments only if the use or ownership of the subject property changes and the property owner is subsequently granted tax-exempt status for all or a portion of the property.
 - **Example:** TID 67 supports the redevelopment of the former Pabst Brewery by Zilber Ltd. The development agreement between the City of Milwaukee and Zilber includes a PILOT requirement to be triggered if Zilber sold property at The Brewery to a tax-exempt entity. This provision was triggered when the UW-Milwaukee School of Public Health developed its classroom building at The Brewery. UWM makes an annual PILOT payment to the City.
- **PILOT Agreement may be a term of the sale for City or RACM property.** The City or RACM may sell property to an entity that expects to apply for a property tax exemption.

The agreement states that, should that entity successfully apply and receive a tax exemption, the entity is required to make an annual PILOT payment.

- Example: The City sold four tax-foreclosed properties for the Veterans Gardens housing development. The property owner successfully applied for property tax-exemption in 2016, and is now billed for an annual PILOT payment.
- PILOT Agreement may be required by the Redevelopment Authority in connection with an agreement to issue RACM bonds. If RACM agrees to issue bonds to finance a development project affecting a property that is or may become exempt from property taxes, RACM may require the developer to enter into a PILOT Agreement.
 - Example: Community Advocates, a social services organization, used a RACM bond issue to finance the purchase and renovation of a new headquarters. RACM required Community Advocates to enter into a PILOT agreement that took effect if the property was granted tax-exemption. The property was found to qualify for exemption, triggering annual PILOT payments.
- Some past PILOT Agreements were a term of sale of Milwaukee Public Schools property. The requirements of SS §119.61 currently prohibit the imposition of PILOT requirements when MPS property is sold to an education operator. However, several sales of MPS buildings to charter schools, closed before SS §119.61 took effect in September 2015, required a PILOT Agreement.
 - Example: The sale of the former Morse Middle School to the Hmong-American Peace Academy was conditioned on an annual PILOT payment.

Fair Share Agreements

In 2005, at the request of Mayor Tom Barrett and the Common Council established a “Fair Share Program” through the adoption of section 307.7 of the Milwaukee Code of Ordinances. The Fair Share Program lays out a procedure through which tax-exempt property owners are encouraged to voluntarily make an annual PILOT payment to defray the City’s costs in providing services to the property.

To date, the Fair Share Program has had only modest success.

Currently there is only one Fair Share Agreement which is paying \$1,982 per year.

Calculating PILOT amounts

Various formulas have been used to calculate the amount required for each property owner. The most common formula establishes an initial payment based on the City’s share of the tax rate, with an escalator clause tied to the Consumer Price Index. Some PILOT agreements specify a fixed dollar payment in the first year, with adjustments over time. For PILOT agreements affecting multi-family developments, the PILOT is based on rent revenues.

A 2012 study of PILOT agreements throughout the U.S. conducted by the Lincoln Institute of Land Use Policy concluded that the modest amount collected through PILOT agreements in Milwaukee is typical of the national experience. Per the study, “PILOTs generate little revenue in most localities.”

Total revenue from exempt entities includes the following:

	2018 Actual Amount
PILOT Agreements (shown above)	\$ 756,980.83
PILOT - Water Works (see 2018 Annual Report)	\$ 13,090,014.00
PILOT - Parking Fund (2018 amount per Budget Office see account # 0001-2110-902105-0001)	\$ 1,413,735.00
PILOT - Non Profit Housing	\$ 297,581.00
PILOT – UWM per WI Statute 70.119	\$ 2,335,748.00
Housing Authority of the City of Milwaukee (see Statute 66.1201 for additional information)	\$ 811,558.00
	\$ 18,705,616.83

Exemption and PILOT Guidance from the Wisconsin Department of Revenue

Per the Wisconsin DOR, the municipal assessor is responsible for processing exemption requests and determining if the property meets the statutory requirements for exemption.

Sec. 70.109, Wis. Stats., provides for a presumption of taxability. Exemptions shall be strictly construed, with the burden of proof resting with the entity claiming the exemption. [Sections 70.11, 70.111, and 70.112, Wis. Stats.](#), list those types of properties that qualify for an exemption from the general property tax. Chapter 20 of the [Wisconsin Property Assessment Manual](#) provides additional information.

In order to obtain an exemption from property tax a "[Property Tax Exemption Request](#)", form PR-230, must be filed with the [municipal assessor](#) where the property is located by March 1. On the form, the property owner requests an exemption under a specific statute and the property in question must meet all specifications of that statute in order to receive an exemption. Exemption determinations are situation specific and based upon the characteristics of the property as of January 1.

If the property owner does not agree with the assessor's taxability determination, the property owner can consider the claim of unlawful tax process under [sec. 74.35](#), Wis. Stats. Page 16 of the [Appeal Guide](#) provides details on the process.

State law provides a payment in lieu of tax for two specific situations:

1. Forest lands <https://docs.legis.wisconsin.gov/statutes/statutes/70/113>
 - DNR: <https://dnr.wi.gov/topic/Lands/RealEstate/pilt.html>
2. Property of housing authorities (WI Statute [66.1201 \(22\)](#))
 - Exempt under sec. 70.11(18), Wis. Stats., if a payment in lieu of taxes is made for that property
 - State law: <https://docs.legis.wisconsin.gov/statutes/statutes/70/11/18>, DOR

Wisconsin statutes - Real and Personal Property Exempted from taxation in Wisconsin

Under Wisconsin law (SS §70.11, 70.111 and 70.112), certain property owners are exempt from the payment of property taxes. While some categories of property (such as property owned by the State or City) are automatically exempt from property taxes, the owners of properties owned by educational, religious and benevolent institutions must file an application to receive a property tax exemption. The City Assessor determines whether the exemption can be granted, based on the standards of SS §70.11, and 70.111.

Wisconsin exemption statutes

Property exempted from taxation 70.11

<https://docs.legis.wisconsin.gov/statutes/statutes/70/11>

Personal property exempted from taxation 70.111

<https://docs.legis.wisconsin.gov/statutes/statutes/70/111>

Property exempted from taxation because of special tax 70.112

<https://docs.legis.wisconsin.gov/statutes/statutes/70/112>

Property of Housing Authorities

<https://docs.legis.wisconsin.gov/statutes/statutes/70/11/4b>

Computer Exemption Guidelines for Assessors and Property Owners

A listing and a description of exempt computer equipment is attached near the end of this report and can also be found at <https://www.revenue.wi.gov/DOR%20Publications/compexgd.pdf>

See attachment #6

City of Milwaukee Exempt Properties – Counts by property use
(data as of February 2019)

EXEMPT PROPERTY TYPE	Computer Code #	PARCEL COUNTS	Most recent estimate or Owner Reported Values	Average Value
(statutory references on bold)				
RELIGIOUS INSTITUTION [70.11]				
Traditional (Construction) Church	10	556	\$669,821,080	\$1,204,714
Store-Front Church	11	22	\$3,476,300	\$158,014
Housing (i.e. Pastors, Ordained Ministers)	20	64	\$16,333,600	\$255,213
Religious School	30	36	\$37,548,580	\$1,043,016
Parking	80	0	\$0	
Convents or Sisters' Homes	50	24	\$17,102,000	\$712,583
Miscellaneous	40	67	\$24,685,800	\$368,445
		769	\$768,967,360	\$999,958
EDUCATIONAL INSTITUTION [70.11(4)]				
Educational Institutions	100	75	\$90,661,000	\$1,208,813
Educational Association	101	3	\$6,711,300	\$2,237,100
Non-Profit Day Care	110	1	\$1,500,000	\$1,500,000
Benevolent Association	111	10	\$8,573,100	\$857,310
Miscellaneous Educational Institution	113	4	\$1,524,200	\$381,050
Public schools, school sites Including Vocational and all MPS	750	175	\$582,250,640	\$3,327,147
		268	\$691,220,240	\$2,579,180
COLLEGES AND UNIVERSITIES [70.11(3)]				
Colleges and Universities	90	104	\$414,681,040	\$3,987,318
Miscellaneous Colleges and Universities	92	1	\$674,000	\$674,000
Vocational Schools	550	11	\$68,431,480	\$6,221,044
		116	\$483,786,520	\$4,170,573
CEMETARIES [70.11(13)]	130	27	\$21,142,530	\$783,057
MEMORIALS [70.11(9)]	170	0	\$0	
WASTE TREATMENT FACILITY [70.11(21)(a)]	171	0	\$0	
BENEVOLENT institution [70.11(4)]				

Women's Clubs	270	2	\$726,500	\$363,250
Historical Societies	271	3	\$1,913,600	\$637,867
Fraternal/Veterans Organizations	160	9	\$7,603,400	\$844,822
Libraries	272	0	\$0	
Community Redevelopment Groups	180	2	\$854,300	\$427,150
Nursing Homes/Homes For The Aged	220	21	\$110,861,650	\$5,279,126
Retirement Homes For The Aged	221	0	\$0	
Assisted Living	222	0	\$0	
Transitional Living	223	8	\$2,916,800	\$364,600
Group Homes --- including CBRF	250	40	\$34,524,600	\$863,115
Children's Homes	210	2	\$500,000	\$250,000
Y.M.C.A & Y.W.C.A. Community Centers	230	36	\$62,115,950	\$1,725,443
Miscellaneous Benevolent	260	74	\$205,035,700	\$2,770,753
Low Income/Disabled Housing	190	99	\$76,386,800	\$771,584
		296	\$503,439,300	\$1,700,808
NON-PROFIT HOSPITALS [70.11(4M)]				
Non-Profit Hospitals	200	23	\$524,081,920	\$22,786,170
Housing For Student Nurses	201	0	\$0	
NON-PROFIT HOSPITALS [70.11(4M)]				
Miscellaneous Non-Profit Hospitals	202	0	\$0	
LABOR TEMPLES [70.11(16)]	280	18	\$8,641,700	\$480,094
PROPERTY HELD FOR REHABILITATION [70.11(4G)]				
Habitat for Humanity	181	35	\$840,660	\$24,019
Miscellaneous Property Held for Rehabilitation	182	0	\$0	
INSTITUTIONS FOR DEPENDENT CHILDREN [70.22(19)]	183	0	\$0	
BOY/GIRL SCOUTS & BOYS'/GIRLS' CLUBS OF AMERICA SALVATION ARMY [70.11(12)]	240	24	\$22,351,200	\$931,300
PROPERTY HELD IN TRUST IN PUBLIC INTEREST 70.11(20)	245	5	\$2,458,700	\$491,740
NON-PROFIT MEDICAL RESEARCH FOUNDATIONS [70.11(25)]	202	0	\$0	

PROFESSIONAL SPORTS HOME FACILITIES [70.11(36)]	405	5	\$27,762,000	\$5,552,400
HUMANE SOCIETIES [70.11(28)]	406	0	\$0	
NON-PROFIT THEATRES [70.11(29)]	407	1	\$2,018,000	\$2,018,000
UNITED STATES GOVERNMENT				
General	310	16	\$68,018,700	\$4,251,169
Indian Reservations	320	4	\$5,526,800	\$1,381,700
Miscellaneous United States Government	321	0	\$0	
		20	\$73,545,500	\$6,677,275
PROPERTY OF THE STATE [70.11(1)]				
General	340	68	\$37,514,050	\$551,677
Highways	360	131	\$8,626,100	\$65,848
University of Wisconsin	330	33	\$232,028,100	\$7,031,155
Department of Veterans' Affairs	350	2	\$1,464,500	\$732,250
Miscellaneous Property of the State	351	0	\$0	
		234	\$279,632,750	\$1,195,012
MILWAUKEE COUNTY [70.11(2)]				
General	390	82	\$147,268,570	\$1,795,958
X-Way (Trust for Wisconsin)	400	243	\$36,645,720	\$150,805
Housing	401	0	\$0	
Metro Sewer	402	227	\$46,394,620	\$204,382
Airport	410	7	\$17,405,150	\$2,486,450
County Parks	420	308	\$186,359,810	\$605,064
Tax Deed & Welfare	430	0	\$0	
County Highway	440	17	\$4,169,700	\$245,276
		884	\$438,243,570	\$495,751
MUNICIPAL PROPERTY [70.11(2)]				
Milwaukee General, Drainage, Creeks, Parkway, Street Remnant	480	402	\$142,895,860	\$355,462
Redevelopment	490	461	\$54,690,430	\$118,634
Housing Authority	500	599	\$95,270,880	\$159,050
Vacant Land / Parking	510	50	\$21,784,700	\$435,694
Playground/Tot Lot/Green Spot	520	82	\$13,283,120	\$161,989
Tax Deed	530	3909	\$91,624,295	\$23,439

Land Banks	540	15	\$15,499,700	\$1,033,313
Wisconsin Center District	570	3	\$70,078,500	\$23,359,500
Miscellaneous Municipal Property	571	17	\$124,536,100	\$7,325,653
		5538	\$629,663,585	\$113,699
RAILROADS [70.112(4)]				
Soo Line	780	116	\$8,569,560	\$73,876
Northwestern	790	75	\$10,104,650	\$134,729
CMC Real Estate	810	1	\$8,200	\$8,200
Miscellaneous Railroads	800	23	\$1,477,900	\$64,257
		215	\$20,160,310	\$93,769
UTILITIES [70.112(4)]				
Air Carriers	820	0	\$0	
Gas	830	1	\$524,910	\$524,910
Electric	840	97	\$69,856,760	\$720,173
Telephone	850	32	\$27,435,300	\$857,353
Pipelines	860	2	\$3,420,000	\$1,710,000
Streets, Alleys, Ped Ways	900	37	\$400,650	\$10,828
		169	\$101,637,620	\$601,406
	Count	9,018	\$4,599,593,465	\$510,046

History of New Exemption Requests Received by Year:

Year	Number of New Exemption Requests	Number of Parcels included in Requests
2005	66	66
2006	67	69
2007	88	113
2008	70	107
2009	43	60
2010	58	79
2011	60	60
2012	56	70
2013	52	66
2014	53	116
2015	50	73
2016	79	103

2017	83	111
2018	67	118
Totals 2005 to 2018	892	1,211
Averages 2005 to 2018	63.7	86.5

New Exemptions in last 10 years (2008 – 2018)

Summary of Value Changes from New Exemptions (City of Milwaukee)

Change Description	Year of Change	Assessed Value Change in 1st year	Cumulative Value Impact	# of Years	Avg. City Tax Rate	Cumulative Shifted Taxes (estimate)
Personal Property – Schedule D1 (computers)	2010	(85,202,000)	(515,212,000)	9	10.29	(5,301,531)
Change of valuation method for Billboards as result of state budget bill (from Real Property to Personal Property) Real property does not include the value of the permits	2013 Act 20	(80,068,379)	(400,341,895)	5	10.68	(4,275,651)
Dark Store and NNN Leased property ruling by Supreme Court	2014	(129,561,919)	(647,809,595)	4	10.68	(6,918,606)
2015 Wisconsin Act 60 to enable the creation of a new professional basketball arena in the City of Milwaukee to host the Milwaukee Bucks Act 60 extended that exemption to also apply to the outdoor plaza adjacent to the arena.	2018	(500,000,000)	(500,000,000)	1	10.59	(5,295,000)
Increased acreage limitation for Marquette University from 80 to 150 acres	2018	Unknown	Unknown	1	10.59	Unknown
Personal Property – Schedule C (Machinery, Tools & Patterns)	2018	(136,094,652)	(136,094,652)	1	10.59	(1,441,242)

Total		(930,926,950)	(2,199,458,142)			(23,232,032)
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Results of 2018 Exemption Requests – 2018

See ledger attached document at end of report

Information supplied to F&P Committee (April 2018)

Informal contacts suggest some tax exempt property owners are not fully aware of the option they have to voluntarily contribute to the cost of providing City services through a PILOT. City departments appear to be in compliance with the requirements of the ordinance entitled “Fair Share Payment in Lieu of Taxes Program.” However, that only requires written notification to exempt property owners. This recommendation endorses a simple and easy to use web presence on the City’s site that provides information and instruction on how to enter into a PILOT.

When selling a City owned commercial property, The Department of City Development prohibits future tax exempt status for that property. Deed restrictions are used to prohibit the owner from applying for exempt status.

In some other cases, the department elicits PILOT agreements from tax exempt property owners in situations where those owners seek something of substantial value from City government or its related agencies. Such PILOT agreements might be the result of a sale of City-owned property for tax exempt use or from bonding handled through the Redevelopment Authority. Similarly, the Department records a Payment in Lieu of Taxes Agreement with the Register of Deeds when the City participates in a large development of property for taxable use. Those agreements require a PILOT in the event any portion of the property seeks and receives tax exempt status.

As Common Council committee members discussed during consideration of this resolution, a number of other cities have exceeded Milwaukee’s PILOT revenue totals. While municipalities have different circumstances when it comes to legislative authority, tradition, and compliance, it is clear there are some lessons Milwaukee can take from the experience of other cities.

It is worth noting tax exempt property owners in Milwaukee paid an estimated \$13-million in fees for specific municipal services in 2017.

Milwaukee also receives a Municipal Services Payment from State government that it provides “in recognition of critical services directly provided to state facilities”. In 2018, that payment is \$2.4-million. There is no similar payment for tax exempt Federal facilities.

RECOMENDATIONS and ACTIONS TAKEN

1) (April 2018) Initial Recommendations provided to F&P Committee

Common Council file number 171142 directed the Commissioner of Assessment and the Commissioner of City Development to develop a plan to increase the number of tax exempt property owners who enter into voluntary payment in lieu of taxes (PILOT) agreements. Representatives of the Commissioners' respective departments met on various occasions along with representatives of both the Mayor's Office and the City Clerk to review data, current procedures, history, and best practices. The work of that ad hoc group provided important perspective for this report.

In summary, we offer the following recommendations:

Recommendation #1

Establish a presence on the City's website that promotes voluntary payment-in-lieu-of-taxes agreements. – Development of a web page is in process. Participating departments include ITMD, DCD and Assessor's office.

- the Department of Administration - Information and Technology Management Division has created test pages. See the three sample pages at:

<https://city.milwaukee.gov/OffNavPages218/DelsTests/Pilot.htm>

<https://city.milwaukee.gov/OffNavPages218/DelsTests/Pilot/Exemptions.htm>

<https://city.milwaukee.gov/OffNavPages218/DelsTests/Pilot/Resources-Non-Nonprofit-Payments-in-Lieu-of-Taxes.htm>

Recommendation #2

Review, and, as appropriate, revise the material developed under City Ordinance 307-7, "Fair Share Payment in Lieu of Taxes Program" to increase voluntary PILOT agreements.

Materials presented to tax exempt property owners fully comply with the requirements established in ordinance. These materials include the letter that is mailed to property owners. This recommendation invites a review of those materials to make sure the City is making a strong and appealing case for PILOT participation.

– Review has yet to be undertaken by representatives of the Mayor's Office, DCD and Assessor's office

Recommendation #3

Review the frequency of contact with the owners of tax exempt property to remind them of the opportunity to participate in PILOT agreements.

The “Fair Share Payment in Lieu of Taxes Program” (City Ordinance section 307-7) specifies the required contact the Commissioner of Assessment must have with tax exempt property owners. Following the initial contact, many years could elapse before the opportunity to participate in a PILOT agreement is presented to the property owner again. This recommendation asks the Commissioner to consider reasonable follow up schedules to remind exempt property owners of PILOT opportunities.

– Current practice includes a letter requesting participation in the Fair Share Program being mailed to property owner who have been given property tax exemptions. This practice has not resulted in the level of participation that was hoped for when then program was implemented. The letter was revised in 2019 with the hope of improving participation. We will begin using the revised letter for the 2020 exemption requests

Recommendation #4

Convene a working group that includes representatives of City government and large tax exempt property owners to explore the impediments to establishing PILOT agreements.

If the City is to realize an increase in the number of PILOT agreements, it is essential to understand what factors might motivate tax exempt owners to participate. This recommendation encourages a formal and frank discussion between the City and potential PILOT participants.

– These discussions were undertaken shortly after the 2018 recommendations were created. No new Fair Share agreements came out of these meetings.

Recommendation #5

Establish a mechanism for insuring that City-imposed deed restrictions, those that prohibit application for exempt status or mandate PILOT payments, are enforced if and when the property owner seeks exempt status.

On occasion there have been situations in which a property owner has sought a status change (exempt vs taxable) in violation of a deed restriction. To insure compliance with established deed restrictions, this recommendation encourages the Assessor’s Office to check the sales history for property owned by an organization seeking exemption from property taxes. If either the City of Milwaukee or Redevelopment Authority appears in the chain of title, the Assessor’s Office can check further to determine whether a deed restriction exists that would require payment of property taxes.

– This review is successfully being performed by the Chief Assessor. As an additional check, the Assessor’s administrative staff has been instructed to review the deeds of city and school district owned parcels to look for deeds that contain these types of deed restrictions.

Recommendation #6

Call attention to exempt property owners who enter into and fulfill their annual PILOT commitments with public announcements, awards, or celebrations.

This recommendation asks City officials to formally honor exempt property owners who participate in Fair Share agreements. In addition to recognizing good citizenship, such honors would implicitly call out those exempt property owners who do not participate.

– This recommendation can be implemented with the new web site but as of now there is only one entity that is participating in this way: St Ann’s Center will be paying \$1,982.22 for 2019.

Recommendation #7

Extend the opportunity to participate in “Fair Share” agreements to residents of tax exempt properties in situations in which the exempt property owner does not participate.

Based on anecdotal information, residents of some tax exempt properties may volunteer to make the equivalent of a PILOT. The City should explore appropriate methods for reaching out to such residents to invite participation.

– The opportunity for residents to participate in this manner will be included on the new web site.

2) Reviews of existing exemptions to ensure properties are still eligible for exemption (2017 – 2018 activity)

Throughout 2018, the Chief Assessor has reviewed existing exempt properties to ensure properties are continuing to meet the exemption requirements. When property uses have changed, inspections are performed and communication with the owners is started to ensure all relevant facts are considered. The results of these reviews are described in the table below:

Descriptions and Outcomes	For 2018 Assessment Roll
Number of Exempt Properties Reviewed:	82
Number of Exemptions continued:	20
Number of Exemptions removed:	52
Number of exempt properties changed to partially taxed	15
Number of parcels where we are still waiting for responses	3
Total Value placed back on assessment roll:	\$44,487,400

Response to 2018 Budget Amendments

Report on increasing PILOT payments (Resolution 171142)

While this portion of the report does not specifically address or discuss new ways to increase PILOT payments, it does discuss new strategies and procedures associated with the review of existing tax exempt properties. While methods to create new PILOT payments should be explored and offered, nationwide, the reality is that successful PILOT programs are few and far between. Taxing jurisdictions have limited control over the ability to generate revenue from strictly voluntary payments in lieu of taxes. Taxing jurisdictions do have the ability and

obligation to determine property tax exemption eligibility and the fair and equitable distribution of property taxes.

In Wisconsin, municipalities can and should regularly and carefully review existing property tax exemptions in order to ensure that each exempt property and property owner continue to be entitled to an exemption, or not. Due, in part, to budgetary constraints, the Assessor's Office has placed more emphasis on the valuation of assessable property and focused less on those properties that were granted property tax exempt status.

In the way of background, from the Wis. Stat. 70.11 introduction, "The property described in this section is exempted from general property taxesif it was exempt for the previous year and its *use, occupancy or ownership* did not change in a way that makes it taxable;...". The review to changes pertaining to use, occupancy and ownership of exempt properties and their owners needed updating with regard to the Milwaukee Assessor's Office.

As it pertains to ownership changes, the Assessor's Office administrative staff is notified by Chicago Title through deeds and transfer returns of these conveyances. Also, various departments as well the Housing Authority and Redevelopment Authority routinely will notify the Assessor's Office of ownership changes via a "conveyance letter" or some form of correspondence indicating that a previously exempt parcel had sold. Procedurally, the administrative staff would then notify management to initiate status changes for these properties. Hence, the process of changing the status of these particular properties from exempt to assessable was routine and generally infallible. However, those properties where notification of ownership change was not obvious and straight-forward would occasionally result in the status remaining exempt when it should have changed to assessable.

As a result of an occasional oversight of a status change, the Assessor's office has recently made some changes so as to minimize the potential for error. First, the administrative staff processing sales and ownership changes were and will continue to be trained to recognize exempt property transactions and then to notify management of the transactions. Second, our Business Systems Administrator will routinely / annually generate a spreadsheet of exempt properties that had sold in the preceding year in order to review and ensure that appropriate status changes occur as a result of ownership changes. Third, appraisers will be notified to investigate these transactions so as to not only determine their validity but also to preliminarily determine whether or not the buyer may be entitled to remain property tax exempt or have a status change take place. The appraisers will be responsible to remind buyers of the obligation to file their Property Tax Exemption Request by the statutory deadline if they feel they would qualify to be property tax exempt.

Among other things, one of the general requirements of an organization seeking property tax exemption status is evidence of non-profit status. And, more often than not, owners provide this evidence with their Property Tax Exemption Request in the form a letter from the Internal Revenue Service showing them to be a 501(C)(3) or non-profit organization. While infrequent, these organizations can lose their 501(C) (3) status by not complying with obligations necessary to maintain their non-profit status. In the past, the Assessor's office has not consistently

reviewed the ownership status of currently exempt organizations. However, the IRS does allow interested parties to review the tax exempt status of organizations through their website. These search queries are a simple and effective way to determine which property owners have potentially lost their tax exempt status. Procedurally, going forward it is anticipated that the review of non-profit status can be accomplished through interns.

An obligation of most exempt organizations under 70.11 is the requirement to file the Tax Exemption Report (Form PC-220af or PC-220f) every even numbered year. This one page report asks the filer to respond to inquiries about: The purpose of the property and under which statute the property qualifies as exempt; the filers opinion of the estimated fair market value of the property; whether or not the property had been leased over the preceding two years and if so, a description of the leased portion, the percentage leased, the lessee and how the leased payment is used; and finally whether or not any unrelated trade or business income is reported under sections 511 to 515 of the Internal Revenue Code. The Assessor's Office will ask the Wisconsin Department of Revenue to amend the form to include a question of whether or not the property has any vacant or unutilized space. Vacant property not used for the purpose for which the exemption was originally granted is no longer entitled to an exemption. Owners of exempt property tend to not voluntarily disclose that their exempt properties are no longer used for an exempt purpose. Moreover, the discovery of assessable property in its entirety or in part is aided by the use of State mandated reporting requirements. Until recently, the Assessor's Office had not made adequate use of this tool to discover assessable property. With revisions to the report, we may have the ability to discover more assessable property.

Under Wis. Stat. 70.11(4a), properties owned by benevolent, non-profit organizations used as low-income housing can also be exempt. In order to qualify for this particular exemption the residents in a low-income housing project may not exceed the Department of Housing and Urban Development, county low-income thresholds. In order to maintain an exemption under the statute, owners are required to annually file the Wisconsin Department of Revenue, Property Owner's Certificate of Occupancy with the assessor. This is a self-reporting document used to show the extent to which tenants qualify as low income. In the recent past, the extent to which the Assessor's Office has reviewed the Certification of Occupancy can be characterized as cursory, at best. That is, the Assessor's Office has taken the property owner at their word that the document they have provided is accurate. The statute does allow for the assessor to require of the owner supplementary information to prove that the organization would qualify as exempt as described in the POCO form. The Milwaukee Assessor's office has not taken the steps to request proof of qualification however, going forward, we will use this tool to ensure that those units that do not qualify are entered on the assessment roll.

Not unlike assessable properties, exempt properties can and will, over time, change occupancy. Of course, a newly leased property could maintain its exempt status so long as the tenant met all the conditions and qualifications as if it owned the property and the lessor uses the all of the leasehold income for maintenance and / or construction debt of the leased property. In the past, the change in occupancy in an exempt property was of low priority for appraisers to review. Recently, the Assessor's Office has started to make procedural changes to include having a

designated appraiser from each of the sections review occupancy changes pertaining to currently exempt properties both to establish qualifications of the tenant and to determine use of the leasehold income. While the changes are still a work in process, appraisers are now aware that changes to occupancy are a greater priority and defining those appraisers who will specialize in that review is a step in the right direction.

In Wisconsin, all general property is assessable unless specifically exempted by law. For many years, discussion of the repeal of personal property tax has been debated. In 2017, Wisconsin Act 59, effective January 1, 2018, exempted machinery, tools and patterns and property reported on Schedule C of the Statement of Personal Property. Not long ago, computers used in business became exempt. And, while the State is currently reimbursing taxing jurisdictions for older personal property now exempt, it appears that the shift of personal property tax to real property tax will continue especially since several other Midwestern states have exempted their personal property all together. As a result, where the Milwaukee Assessor's Office has the discretion to choose the classification of property we will reclassify currently classified personal property to real property. That is, buildings on leased land, such as airport hangars, a few parking lots and salt domes along with cellular towers no longer valued by the Department of Revenue, will be reclassified and valued as real property so as to avoid the possibility of exemption for property currently classified as personal property.

In summary, the Assessor's Office will reemphasize the review of use, occupancy and ownership as it pertains to those properties currently exempted from taxation. This will be accomplished through additional exemption training to the staff in addition to the implementation of procedural and policy changes. The workload should be equitably distributed to the respective neighborhood appraisers.

Report on increasing PILOT Payments (Resolution 171142)

Milwaukee's "Fair Share Program" was established in 2005 in an effort to create PILOT agreements. The limited scope and outreach of the Program resulted in limited PILOT agreements. However, with continued pressure on assessable property owners to pay for the services that exempt organizations are receiving at no cost, comes the necessity to increase revenue through other means. As a result the Milwaukee Common Council has requested a plan and strategy to generate increased PILOT revenue.

It seems there are many avenues taxing jurisdictions have taken to increase PILOT revenue. The creation of new taxes for things like hospital beds occupied or student tuition taxes are possibilities. The use of heavy handed techniques of limiting the ability of getting permits or zoning changes without some sort of PILOT agreement has been used. It seems some communities use an open and transparent policy developed over time by selling their message of the need for the community to be on solid ground financially. Whatever approach used typically involves new resources to achieve some greater level of success. However, since other communities have determined that a confrontational approach is less effective, there is little incentive to use this approach.

Additional Recommendations:

Continue the practice of using an ad valorem system to ensure uniformity with those property owners who currently pay property taxes. But because in most cases property data is lacking for those properties that are currently exempt, the Assessor's Office will need to either use the property owner's opinion of value or use appraisal staff to gather data so as to generate accurate assessments.

Also, both the City home page and Assessor's Office page should clearly express the need for PILOTS, how to initiate a request of a PILOT, the details of the Program itself as well as a sample PILOT agreement.

Increase the frequency of the mailings to or contacts with exempt organizations explaining the benefits of the services and the benefits to the City.

Make contact with those residents who occupy units in exempt buildings, requesting that they consider making a fair share payment. These might include residents in Chapter 50 facilities.

Do not refer to the acronym "PILOT" but continue to refer to the program as the "Fair Share Program".

2019 PILOT Activities for Assessor's Office

- 1) **Implementation of new web page to provide information about PILOT programs and opportunities for greater participation** in conjunction with Department of City Development of the site with assistance from the Department of City Development, the Mayor's Office and the Information Technology Department. Web site to include:
 - Explanation of various PILOT currently programs currently in place
 - Status report of Current PILOTS agreements
 - Sample Agreements
 - Exemption Statistics
 - Reason and request for new participation from property owners
 - Contact Information if potential participants have questions
 - Chapter 307.7

Guidance from the International Association of Assessing Officers and participation of rewriting the Standard on Property Tax Policy

The Commissioner is a member of a committee responsible for updating the international standard on Property Tax Policy. This standard includes best practices as to how Payments in Lieu of Taxes (PILOTS) should be administered. Final publication of the revised standard is expected in Q1 of 2020.

https://www.iaao.org/media/standards/Standard_on_Property_Tax_Policy.pdf

Summary of existing Milwaukee PILOT Agreements

See the copy at the end of this report

Resources from the Lincoln Institute of Land Policy

The Lincoln Institute of Land Policy seeks to improve quality of life through the effective use, taxation, and stewardship of land. A nonprofit private operating foundation whose origins date to 1946, the Lincoln Institute researches and recommends creative approaches to land as a solution to economic, social, and environmental challenges. Through education, training, publications, and events, we integrate theory and practice to inform public policy decisions worldwide. Publications related to PILOTs include:

- 1) **Payments in Lieu of Taxes – The Boston Experience** by Ronald W Rakow

<https://www.lincolnst.edu/publications/articles/payments-lieu-taxes>

See copy of this Policy Brief at the end of this report

- 2) **Payments in Lieu of Taxes – Balancing Municipal and Nonprofit Interests** published by Daphne A. Kenyon and Adam H. Langley of the Lincoln Institute of Land Policy

<https://www.lincolnst.edu/pt-br/publications/articles/municipal-fiscal-crisis-payments-lieu-taxes-nonprofits>,

See copy of this Policy Brief at the end of this report

List of attached Documents

- 1) 2019 Exemption Requests
- 2) Summary of Existing Milwaukee PILOT Agreements
- 3) Payments in Lieu of Taxes – Balancing Municipal and Nonprofit Interests
- 4) Payments in Lieu of Taxes – The Boston Experience
- 5) Sample Fair Share PILOT agreement
- 6) Computer Exemption Guidelines from Wisconsin Department of Revenue
- 7) Milwaukee Chapter 307-7