

**INDUSTRY DEFENSE FUND
APPLICATION FOR FUNDS**

TO: BOMA IDF Oversight Committee

FROM: BOMA International

RE: Depreciation Study Analysis

AMOUNT of REQUEST: \$8,000

DATE: 1/20/2015

I. PURPOSE:

In 2014, BOMA and nine other real estate associations jointly funded a study by MIT to look at the true depreciation rates of real property. The study was motivated by congressional tax reform plans from (now retired) Chairman Dave Camp and (now retired) Sen. Max Baucus, as well as a budget proposal from President Obama, that would raise the tax burden on real estate ownership by lengthening depreciation periods for real estate. The Baucus and Camp plans would unify and extend straight-line depreciation schedules for real property to 43 years or 40 years while eliminating shorter depreciation periods for residential rental property and leasehold improvements. The proponents of these plans claim they are aligning the tax rules for cost recovery/depreciation with the actual rates of economic depreciation for buildings.

At the time, BOMA's Industry Defense Fund supported the study based on the premise that the outdated depreciation studies from the 1960s and 1970s, upon which the 39-year schedule is based, simply had no replacement. The objective of the MIT study was to update the depreciation research in a credible and objective way, and in the process, effectively refute those who suggest the depreciation periods for real property should be longer. The final MIT study was received in November, and demonstrates that buildings depreciate much faster than previously believed, particularly when ongoing capital expenditures are taken into account. Although recent legislative victories have "permanently" reduced the depreciation period for qualified leasehold improvements from 39 to 15 years, there is no such thing as 'permanent' in Washington, DC and the next comprehensive tax reform plan could once again change the schedule.

While the MIT study is truly groundbreaking, the authors were careful to "stay in their lane" – which is analyzing the useful lives of different types of real estate – and did not tackle the issue of tax policy. We concluded that we needed extra, outside help with this part of the project to provide a more colloquial analysis of the implications of the MIT depreciation study for tax policy and tax reform. In August, we issued a Request for Proposals to outside firms for a tax policy analysis of the MIT study. The NREO groups reviewed the four proposals we received and selected Drew Lyon and his team at Price Waterhouse Coopers to do the study. Drew Lyon is the former

Treasury Assistant Secretary for Tax Analysis, and he also worked at Joint Committee on Taxation. He is very credible, and will make an excellent DC-based advocate for our work.

Whereas the MIT study investigated the nature and magnitude of real depreciation of commercial building structures, the proposed analysis is expected to create marketing and lobbying collateral for use for years to come to enhance BOMA's lobbying, grassroots, recruitment and communications efforts moving forward. They will also provide a visual, graphic presentation of the written analysis—presumably a PowerPoint—for use in policy briefings, and make their team available for briefings in Washington, DC with key Congressional offices, Administration officials, economic bureaus, sponsoring organizations, and the media.

II. MEMBER IMPACT:

All BOMA International members would benefit from this effort since most depreciation studies available are old and outdated, and any potential tax reform plans will be national in scope. The new study, coupled with this policy roadmap, will help bolster the industry's case for building depreciation schedules in tax reform that more closely reflect the realities of the marketplace and help us to fight inequitable taxes on the industry.

III. BOMA MEMBERS' INTERESTS IMPACTED:

1. The industry now has an updated, objective, and high quality research study that proves the economic rate of depreciation of real property is much faster than previously estimated. This research reflects recent trends and changes in building design, the role that obsolescence and other factors play in depreciation, and the need to account for capital expenditures when accounting for changes in property values. We must analyze this data in order to use it effectively in our lobbying and outreach efforts or else it will remain too esoteric for practical use.

2. For the purposes of tax reform, there's a need for the industry to obtain strong empirical evidence to support the argument that aligning depreciation rules in the tax code with the economics of real estate investment demands shorter, not longer, cost recovery periods.

IV. PRECEDENT VALUE:

Has this issue been litigated, legislated, or the subject of regulation in another local or state jurisdiction, or at the federal level?

NO

YES.

In 2014, both the House and Senate introduced tax reform proposals that would extend the current 39 year depreciation timeline to 43 years in the Senate Finance Committee draft, 40 years in the House Ways & Means proposal. While the current leasehold depreciation period has been reduced to 15-years, other types of depreciation are still not in-line with economic reality and any

broad tax reform plans in future political administrations could render the new legislative victory moot.

V. MATCHING FUNDS:

For the study, BOMA International will be sharing the cost (\$80,000) with nine other real estate associations. At this time, the National Association of Real Estate Investment Trusts (NAREIT), The Real Estate Roundtable (RER), the International Council of Shopping Centers (ICSC), the National Association of Realtors (NAR), the National Association of Home Builders (NAHB), NAIOP, the National Apartment Association (NAA), the National Multifamily Housing Council (NMHC), and the American Seniors Housing Association (ASHA) are all firmly committed to funding the study. It is unclear at this time just how many industry groups will ultimately participate. Should any more groups fund the study, the amount of funds expended will be adjusted appropriately, with the remainder to be returned to the IDF.

VI. ACCOUNTABILITY:

A. Please provide the following information on the individual who will serve as lead on this project and will verify all relevant payment requests.

Expenditure of any of these funds will be subject to the three-signature requirement contained in the BOMA IDF Rules.

B. How will project costs be tracked, and how will the required updates, financial statements, and related documentation outlined in the Disbursement of Funds process (Section VII of the IDF Rules) be provided to the IDF Oversight Committee?

All expenditures will be made via invoice and reviewed prior to reimbursement by BOMA's Advocacy Division, as well as the Finance staff. Also, no funds will be expended until approved by the IDF Chair and BOMA's President.

VII. DURATION OF FUNDING:

The study is expected to be completed by the middle of 2016. The full amount is requested to fund the study at this time.

VIII. OUTLOOK:

A. Please indicate the likelihood of success of the planned action and your reasons for making such an assessment.

POOR _____ FAIR ___ **GOOD X** EXCELLENT _____

Being able to truly use the updated, comprehensive study by MIT will help bolster the industry's stance that any kind of tax reform plan should take into account the true economic life of a building.

B. Please indicate the likelihood of success of planned action without IDF funding and your reasons for making such an assessment.

POOR _____ FAIR X GOOD _____ EXCELLENT _____

In the recent past, both the House and Senate have played host to tax reform plans that proposed an increase in the depreciable life of real property. It's necessary for the industry to provide congressional staff with consumable data based on our current research to support its argument that real property should actually be depreciated over a shorter period of time, not longer. The most recent congressional proposals were justified by citing old and outdated data.

IX. SELF HELP:

A. Please list actions already undertaken toward achievement of the stated project goal:

BOMA International has joined its industry partners in written comments to congressional staff expressing its disagreement with the proposals lengthening the depreciation schedules.

B. Do you have a Government Relations Committee or similar entity to assist and/or provide oversight in pursuing this issue?

BOMA International's Government Affairs Committee will be consulted throughout this process.

X. WORK PRODUCT:

A. Will this application result in a work product that may be used by other BOMA members, local associations, or state coalitions?

YES X NO _____

The Depreciation study analysis will be available to BOMA members, local associations, and state coalitions to use as reference in support of BOMA International's efforts during the tax reform discussion, grassroots outreach and lobbying efforts.

INDUSTRY DEFENSE FUND

BALLOT

APPLICANT: BOMA International

PROJECT: Depreciation Study, Phase 2

DATE OF REQUEST: January 20, 2015

AMOUNT OF REQUEST: \$8,000

DATE OF IDF COMMITTEE MEETING: February 1, 2016

We the members of the IDF Oversight Committee have met, and a quorum being present, have taken the following action on the above-captioned request:

_____ Approved

_____ Approved in part: Explain

IDF CHAIR
Bruce J. Koehler

IDF COMMITTEE SECRETARY
Karen W. Penafiel

INDUSTRY DEFENSE FUND
DISBURSEMENT OF FUNDS REQUEST

TO: Faides Zilemba, Vice President

FROM: IDF Oversight Committee

RE: Disbursement of Funds

DATE:

If all the necessary signatures are found below, you are directed to make the following disbursement:

| | |
|------------------------------|--|
| Project Name | BOMA International Depreciation Study Analysis |
| Total Authorized | \$8,000 |
| Beg. Bal. Unexpended | \$8,000 |
| Reimbursement Request | \$ |
| Ending Unexpended | \$ |
| Payee | The Real Estate Roundtable |
| Address | 801 Pennsylvania Ave, NW Suite 720 Washington, DC 20004 Attn: Nancy Pitcher |

We verify the above expenditure to be:

- In accordance with the IDF Oversight Rules for Operation;
- Within the authorized cap established by the IDF Oversight Rules for Operation;
- In furtherance of achieving the goals established by the IDF Oversight Committee; and
- In accordance with a completed Project Financial Update and Statement form.

Karen W. Penafiel, IDF Secretary

Henry H. Chamberlain, President/COO

I accept the representation of the BOMA staff and direct the funds be released.

Bruce J. Koehler, Chair, IDF Committee