

TIF Districts and Tax Appeals: *What You Need To Know*

May 3, 2018

Introductions

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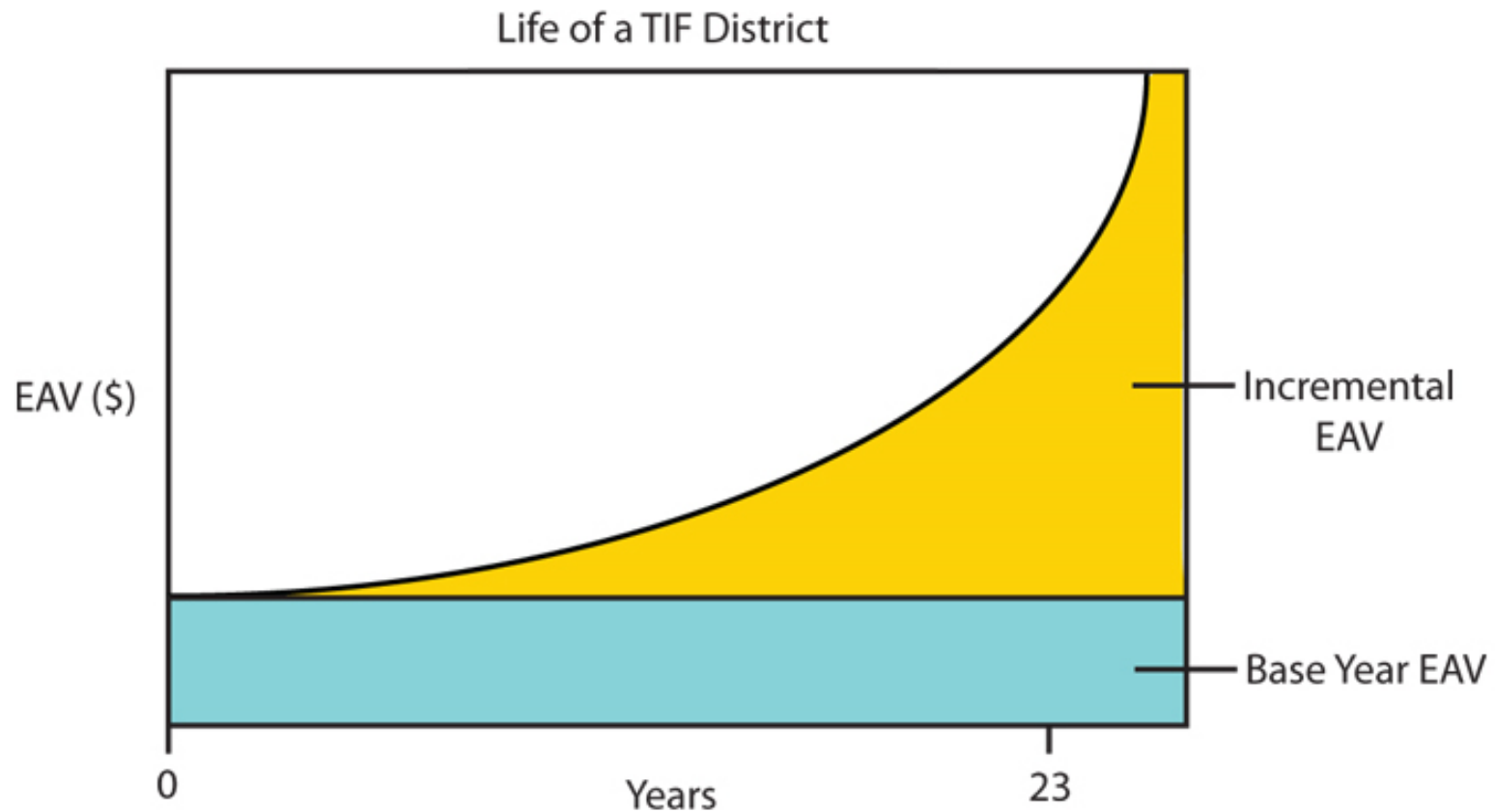
Preview

- What is a TIF district?
- Finding 'blight'
- Establishing a TIF district
- Developing an IGA
- Annual reporting
- Extending the Term
- TIF Termination and Post Termination Issues
- TIF Reform Efforts
- Property Tax Appeals

What is a TIF District?

- Economic development tool
- Available to municipalities
- Requires finding of 'blight' or 'conservation area'
- Creates a revenue source for public investments to improve an area
- The default tool for new development

How a TIF District works



Blighting Factors

- Dilapidation
- Obsolescence
- Deterioration
- Structures below minimum code
- Illegal use of structures
- Excessive vacancies
- Lack of ventilation, light or sanitary
- Inadequate utilities
- Excessive land coverage/overcrowding
- Deleterious land use & layout
- Environmental clean-up
- Lack of community planning
- Declining EAV in 3 of last 5 years

Finding Blight

- For a 'blighted area' – must demonstrate 5 or more of the 13 factors
- For a 'conservation area' – must find 3 or more of the factors
- Factors must be 'present to a meaningful extent' and 'reasonably distributed'
- Municipality will retain a TIF consultant to establish eligibility
- Vacant land findings

Joint Review Board

- Convened by the municipality
- Your opportunity to be heard
- Consists of representatives from community college, schools, park, library, fire protection, township, county, municipality, and a 'public member'
- JRB provides a recommendation
- If no, municipal approval must be 3/5 (rather than simple majority)

Importance of JRB

- Carefully review TIF eligibility study
 - Hire your own land use planner
- Communicate with other taxing bodies
- Negotiate JRB recommendation
- Insist on an intergovernmental agreement with municipality – TIFs run for 23 years
 - Surplus payments
 - Capital improvements
 - Limitations on Appeals & Rate Objections

Intergovernmental Agreement

- Issues for negotiation:
 - Term – 23 years or something shorter
 - Budget
 - Surplus payments
 - Geographic scope
 - Partial per capita cost of new students/notice
 - Infrastructure improvements
 - Other considerations
- 23 years is a long time – document all understandings

Glenview Naval Air Station (The Glen)

- Development of the Glenview Naval Air Station (GNAS) under terms of the Economic Development Project Area Tax Increment Allocation Act of 1995 (65 ILCS 110/1 et. Seq.), which automatically qualified closed military installations greater than 500 acres as blighted areas eligible for TIF
- Development of Intergovernmental Agreements and Make-whole formula with affected taxing districts
- Converted this special TIF to a conventional TIF to assure that growth in value would be treated as “new property” when TIF retired
- TIF is now eligible for extension with agreement from taxing districts
- Downturn in home values has had a negative impact upon the Village and a positive impact upon the taxing districts
- Value of “new property” may result in less tax revenue than make-whole payments

City of North Chicago

- Sheridan Crossing TIF created in 2007
- “But for” requirement* met based on reasonable rate of return...*However,*
- Property value did not increase over last 10 years, resulting in no increase in tax revenue
- Creation of IGA to sunset TIF and create tax abatement for duration of original TIF
- IGA provides adequate revenue for project and new revenue for taxing districts

* Redevelopment is only feasible with utilization of tax increment financing

Village of Niles

- Four new proposed TIF districts
- TIF districts qualify as “conservation areas”
- Milwaukee Ave corridor qualifies as a “transit facility improvement area (TFIA)”
- TFIA created in 2016 as modified TIF for major transit improvements in Chicago and adjacent municipalities
- Niles TFIA based on new Pace Pulse bus stations (Milwaukee Ave to the Blue Line)

Creative Ideas for IGAs

- Payment structures other than conventional TIF rebates
 - Payments in lieu of property taxes
 - Revenue sharing agreements
 - IGA's to provide for negotiated tax incentives other than TIF
 - IGA's that sunset earlier than 23 years (conventional TIF)
- Restructured/Renegotiated TIF Agreements
 - Mixed use developments
 - Amendments to include/exclude identified parcels
 - Direct rebates of property taxes

Annual Report

- Municipality must produce annual report
- To be filed with State Comptroller
 - The Warehouse
 - Examine fund balances and expenditures
- JRB to hold annual meeting with municipality to report on activities and spending in TIF district
- Use annual report as tool for surplus payments and early termination

The Good and the Bad

- GOOD:
 - Annual JRB Mtg.
 - Involve all JRB members
 - Official minutes of Mtg. disclose progress, and finances
 - Share actual maps of all active TIF, background and Plans
 - Open/Transparent
- CHALLENGING:
 - No annual JRB Mtg
 - Difficult to keep up
 - Minimal information
 - Annual report on website or Comptroller
 - Done “To” not “With”

The Good and the Bad

- Know the political landscape & motivations for TIF use
- Gather the facts:
 - Official Date (tax year) of TIF established = County Clerk
 - Official annual report from Village @ JRB or obtain from Illinois Comptroller
- Monitoring activity and finances
 - Can be interesting uses
 - Careful of “Snuggle” TIF transfer

TIF Termination

- Incremental EAV considered 'new property' under PTELL
- Additional revenue from new property EAV is part of aggregate extension forever
- Must monitor TIF to know when it ends
- Municipality required to give notice by November 1st of final year

Extending the Term

- From 23 to 35 years
- Must have taxing district approval
- Why do it?
- Calculate loss of revenue
- Intergovernmental agreement
 - Surplus payments
 - Detach certain parcels

Post Termination Issues

- Responsibility for refunds once increment is gone
- *Village of Arlington Heights v. Pappas*
 - Appellate Court ruling in November of 2016 holding that municipality is responsible for post-TIF refund payments
- Re-TIF'ing an area
 - The latest exploitation of the TIF concept
 - See HB 2964
 - Examples: Elmhurst, Mt. Prospect, Wheeling

TIF Reform Efforts

- Tax Increment Financing Reform Task Force
- Included with School Funding Reform Law
- Proposed changes:
 - JRB review and action
 - Stop using TIF to overly restrict property tax revenue

TIF Reform Efforts

- Return accumulated TIF surplus to Local Governments
- Stop allowing new redevelopment plans from including formerly TIF'd land
- Increase the criteria for establishing a TIF
- Stop establishing residential TIF areas creating overburdened schools
- Require transparency with timely reporting and notice of meetings



TIF Impact & Recommendations for Change

Testimony before the Illinois TIF Task Force – 4/24/18

School Districts across Illinois need the following changes enacted to secure predictable, stable and reliable funds to educate Illinois' children! Please support these changes to the Tax Increment Financing Law, providing transparency for community and impacted local governments!

ED-RED



Joint Review Board (JRB) Review and Action:

- REQUIRE Binding Approval
 - JRB Issues a Report approving or disapproving of any proposed plan
 - Include finances of all impacted taxing bodies in plan decision
 - Include "best interests of the community" as criteria for disapproval
 - Weighted JRB Voting based upon each taxing district's percentage of total property tax rate

STOP using Tax Increment Financing to Overly Restrict Access to Property Tax Revenue

- No more than 25% of EAV of any taxing district without consent of the taxing district



RETURN Accumulated TIF Surpluses to Local Governments

- Distribution of Unused Funds Returned
 - Require Municipalities to report surplus in Annual Financial Reports
 - Require declaration and distribution of surplus for any dedicated incremental revenues not used after 5 years
- Limit Portability of Revenues



STOP Allowing New Redevelopment Plans from Including Formerly TIF'd Land

- Prohibit Municipalities from creating new TIF projects on any portion of property previously included within a redevelopment area that has been dissolved, completed or terminated, for fifteen (15) years.

SCOPE

INCREASE the Criteria for Establishing a TIF

- Adjust the requirement for "vacant" property to include four (4) or more of the criteria to be considered for a TIF.

Vision on Issues and Choices in Education V.O.I.C.E.

STOP Establishing Residential TIF Areas Creating Overburdened Schools

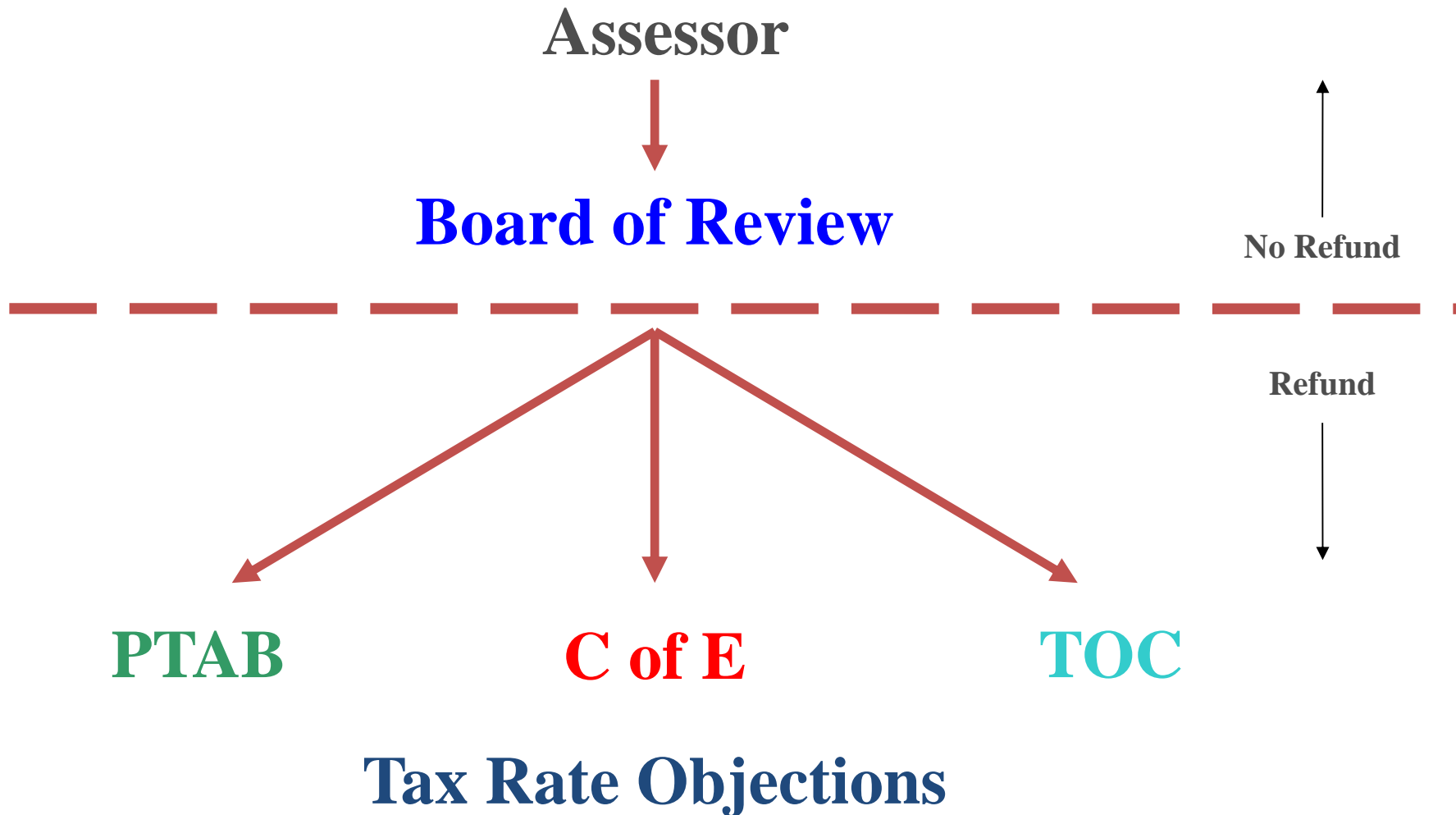
- Prohibit the use of TIF for residential development from future or extended TIF agreements without the approval of local school boards.
- Require an Intergovernmental Agreement (IGA) with the affected board of education that addresses the financial support for any new students generated due to the development.

REQUIRE Transparency with Timely Reporting and Notice of Meetings

- Municipalities:
 - failure to notice, Failure to File Reports, and Failure to hold annual JRB Meetings – County treasurer notified to declare "surplus funds" distributed to underlying taxing bodies

- Provide additional time, 90 days (now 45 days) for notice to taxing bodies of JRB annual, amendment and origination plan meetings
- Require all existing municipalities where TIF ordinances are in place to file a termination date (last tax year established) with county treasurers.
 - Prospectively, require the same for any new redevelopment plans adopted.
 - Require notification to taxing districts by July 1st annually, instead of November 1st.
- Recovered Tax Increment Value after Failure To Notice
 - Allow taxing districts to recover lost access. Recovered tax increment value will be current year EAV in the first year beginning at least 60 days after such notice has been provided.

Property Tax Appeals



Valuation Appeals

- Local Assessor
- County Board of Review
 - Right to Intervene
 - Pre-Tax Extension Settlements
- PTAB
 - Notice at \$100,000 AV change
 - Refunds from current collections
 - 60 days to intervene
- Tax Objection Complaints (TOC)
 - No notice to taxing districts
 - Refunds from current collections
 - Circuit Court litigation

Questions and Answers

We thank you for your time!

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