

Economic Development Tools for Local Governments

Pamela I. Hanover

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44 Offices in 21 Countries



- Frequently, the only inducement needed to attract a particular project is providing the public improvements necessary for the project.
- The developer could pay for the infrastructure through special assessments or tax increment financing.

- Public Purposes for Land Assembly:
 - Public Improvements
 - Urban Renewal
 - Economic Development
 - Revitalization
 - Housing

- Legal Issues:
 - Eminent Domain available for the acquisition?
 - Sell property by negotiation?
 - Sell property below fair market value?
 - What type of financing is available?

- The Job Creation Income Tax Credit program provides a credit against a company's municipal income tax liability for up to 15 years. The amount of the credit is to be based on a percentage of the new income tax revenue the municipality will derive from new employees at the company's project. The credit is refundable or nonrefundable, as determined by City Council.
- The Job Retention Income Tax Credit is similar, except the credit is based on retained employees and may also be refundable or nonrefundable.
- Until September 2015, the project first must have been approved for the State tax credit program. Now, eligibility criteria will be negotiated by the municipality.

- A number of cities are offering economic incentive grants (generally, in lieu of tax abatement). The grant often is payable over a period of years instead of in one lump sum, and the amount is typically measured by the amount of payroll taxes received.
- There is no specific statutory provision for these city grant programs.
- Note that if a city agrees to pay the grant over a period of years, the city should consider limiting the repayment source to nontax revenues or make the amount payable subject to annual appropriation.
- Prevailing wage issues.

- There are several programs granting tax abatement to new projects. The most often used is the Community Reinvestment Area Program and Enterprise Zone Program.
- The Community Reinvestment Area Program permits property tax abatement for new construction or remodeling of residential, commercial or industrial facilities for up to 10-15 years.
- The Enterprise Zone Program permits property tax abatement mainly for non-retail industrial or commercial projects.

- School Notice. Unless a project is located in a grandfathered CRA, either a 14-day or 45 business day notice to the school district is required prior to approval of an agreement for tax abatement.
- School Approval. For each Program, school board approval is required if the percentage of the abatement or, for the Enterprise Zone Program, the length of the tax abatement, exceeds a certain threshold.
- Income Tax Sharing. If the payroll from new employees is expected to equal or exceed \$1,000,000, up to 50% of income tax from those employees must be shared with the school district unless the school district agrees otherwise, usually in a compensation agreement.

- There are several tax increment financing programs. The program most often used by cities, counties and townships provides that payments in lieu of taxes for a private development may be used to pay costs of public improvements that *directly benefit* the private development, such as street and utilities through an industrial or commerce park.
- In essence, the real property taxes that would have been paid on the increased property value resulting from a project are redirected to the City to pay for the public improvements.
- Another TIF program permits cities that are engaged in urban redevelopment and that acquire property and sell or lease that property to use tax increment financing payments to pay costs of the private development.

- Those redirected payments in lieu of taxes are often used to secure financings.
- School district notice and, if the exemption exceeds certain percentages or number of years, school board approval is required
- Frequently, to obtain school approval a compensation agreement is entered into. If a compensation agreement is entered into, any joint vocational school district is also entitled to compensation “at the same rate and under the same terms.”
- Like tax abatement, if the payroll from “new employees” of a project equals or exceeds \$1,000,000 in any year, the public body and school board must attempt to negotiate a revenue-sharing agreement. If no agreement is reached, the city is required to share up to 50% of the income tax revenues derived from the new employees.

- There are many unanswered questions in income tax sharing requirements:
 - What if the payroll is estimated to exceed \$1,000,000 but in fact does not?
 - What if the payroll was not expected to be \$1,000,000, but in fact is?
 - What if the payroll exceeds \$1,000,000 in some years and not others?
 - How does a city practically count who is or is not a new employee in future years, particularly for expansion projects?
 - What if 50% of the income tax exceeds the amount of property taxes the school district would have received?

- As a result of the unresolved issues surrounding income tax sharing, it is helpful to enter into an agreement with the municipal corporation to at least address those issues.
- Many school districts enter into compensation agreements as a condition to approving TIF or tax abatement proposals, which often involve the following:
 - Payments by the developers to the school district during the term of the tax exemption.
 - Income tax sharing.
 - For a TIF project, a percentage of the payments in lieu of taxes received.
 - A lump sum payment on the date TIF bonds are issued for a project.
 - Other services to be provided by the local government or the developer.

- Bonds issued by city or county payable or secured by nontax revenues.
 - Usually proceeds are loaned to private entities and are used for private project costs.
 - Often bonds are not tax-exempt.
 - Might require approval of community improvement corporation.

- Bonds issued by city, county or port authority payable from payments in lieu of taxes (PILOTS) under a TIF program.
 - Typically bonds must be secured by more than just PILOTS.

- Loans from the State, secured by PILOTS or other non-tax revenues.

Public Partners

- City of Kent, Ohio
- Kent State University
- Portage Area Regional Transportation Authority



- Purchased 1 ½ blocks Downtown
- Leased to Developer for office, restaurant, residential buildings
- Constructed major street improvements and paid a portion of parking deck
- Issued General Obligation Debt expected to be paid from TIF payments

- Purchased property and constructed Esplanade joining campus to Downtown
- Worked with Kent State Foundation and developer to fund Kent State University Hotel and Conference Center



- Recipient of \$20 million TIGER grant in 2010 for multi modal transit center and parking structure
- Constructed that facility, opened summer 2013, including parking supporting all Downtown redevelopment



THANK YOU!

Pamela I. Hanover
Squire Patton Boggs (US) LLP
pamela.hanover@squirepb.com
(216) 479-8763

