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COLUMBIA CITY COUNCIL

July 16, 2009

re: TIF applications

Ladies and Gentlemen of the City Council:

Please, find attached the following documents:

- + In a TIF: Why Missouri Needs Tax Increment Financing Reform
(introduction& executive summary included - full text available upon request)*
- + Reclaiming the Intent: Tax Increment Finance in the Kansas City & St. Louis
Metropolitan Areas
(introduction& executive summary included - full text available upon request)*
- + TIF Reform*
- + Uneven Patchwork: Tax Increment Financing in Kansas City
(introduction& executive summary included - full text available upon request)*
- + Who Pays (and Who Doesn't) ?*
- + TIF Commission Flow Chart*

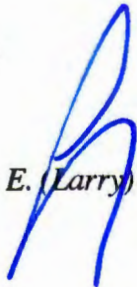
Your kind and open minded consideration of both the positive and negative aspects of TIF use in retail areas is important to the future of their use in Columbia, MO. Please, engage a community wide debate on this important economic development tool to draft concise, clear and goal oriented TIF policies that do not adversely our local schools and which coincide with our job creation goals to bring high tech and skilled employment to our community.

Questions and / or comments may be directed to myself at the phone numbers or e-mail also noted above

Best Wishes and Again Thank You for Your Time and Service !

Sincerely:

Lawrence E. (Larry) Schuster



IN A TIF: WHY MISSOURI NEEDS TAX INCREMENT FINANCING REFORM

by Washington
University

I. INTRODUCTION + summary, full paper
2001/2/24
(40+ pages)

In St. Louis County, Missouri, shopping malls, private commercial real estate developers, and section 99.800 of the Missouri Municipal Housing Code are starting to add up to trouble. Missouri passed its Real Property Tax Increment Allocation Redevelopment Act¹ ("the statute") in 1982.² Its creators intended tax increment financing (TIF) as a tool to allow communities to redevelop "blighted" areas by financing that redevelopment through increased property tax revenues generated by the redeveloped land.³ Recently, however, some have criticized the statute, voicing concern that projects financed under it run contrary to its original intent.⁴

1. MO. REV. STAT. §§ 99.800 - .865 (1994 and Supp. 1998).

2. See Christina G. Dudley, *Tax Increment Financing for Redevelopment in Missouri: Beauty and the Beast*, 54 UMKC L. REV. 77, 79 (1985).

3. See Marc Jolin et al., *Tax-Increment Financing: Urban Renewal of the 1990s*, 32 CLEARINGHOUSE REV. 81 (1998); see generally, John E. Anderson, *Tax Increment Financing: Municipal Adoption and Growth*, 43 NAT'L TAX J. 155 (1990); John F. Cook, *The Battle Against Blight*, 43 MARQ. L. REV. 444 (1959); David A. Hegg, *Tax-Increment Financing of Urban Renewal—Redevelopment Incentive Without Federal Assistance*, 2 REAL EST. L.J. 575 (1973); Jack R. Huddleston, *A Comparison of State Tax Increment Financing Laws*, 55 ST. GOV'T. 29 (1982); Eugene B. Jacobs & Jack G. Levine, *Redevelopment: Making Misused and Disused Land Available and Usable*, 8 HASTINGS L.J. 241 (1956-1957); Gerald M. Trimble, *Tax Increment Financing for Redevelopment: California Experience is Good*, 31 J. HOUSING 458 (1974); Thomas J. Burnside, Comment, *Tax Increment Financing: "Rational Basis" or "Revenue Shell Game"?*, 22 URBAN L. ANN. 283 (1981); Dan McMahan, Note, *Municipal Corporations: The Constitutionality of Oklahoma's Central Business District Redevelopment Act*, 35 OKLA. L. REV. 821 (1982); Randall V. Reece & M. Duane Coyle, Note, *Urban Redevelopment: Utilization of Tax Increment Financing*, 19 WASHBURN L.J. 536 (1980); John H. Herman, Recent Development, *Municipal Blight Declarations*, 23 URBAN L. ANN. 423 (1982).

Although this Note will provide more analysis in subsequent parts, the following explains in brief the usual purpose and function of a tax increment financing project. A municipality issues tax-exempt bonds in order to raise revenue to finance private redevelopment in a blighted area. At the beginning of the project, the municipality freezes the property tax assessment of the site and then uses the incremental revenue from the increased property taxes on the site to retire the bonds. Once the municipality repays the bonds, the property tax base is unfrozen and all future tax revenues go to the local taxing authorities. The key to a successful TIF project is an increase in the assessed value of the property so that the bonds may be retired and the property will generate greater revenue for the municipality than it does in its current form. See generally, DANIEL R. MANDELKER ET AL., *STATE AND LOCAL GOVERNMENT IN A FEDERAL SYSTEM*, 290-302 (4th ed. 1996); see also *infra* Part II.A.

4. See, e.g., Anne Kessen Lowell, *So West County Mall is Blighted Property?*, ST. LOUIS POST DISPATCH, July 29, 1998, at B7 ("Three recently proposed TIF sites] are not blighted and do not qualify, under the spirit of the TIF law, for taxpayer-financed assistance. Proponents are quick to point out that these sites legally fit the definition of blight under [the] Missouri statute but their argument only highlights

Two controversial projects in St. Louis County provide good examples of the debate over the appropriate uses of TIF. The first project involves a proposed retail development that would require a zoning change from residential to commercial⁵ in one of St. Louis' more than ninety municipalities.⁶ The real estate developers asked the city of Olivette for \$40 million in tax increment financing, almost a third of the total estimated cost of the development. These companies proposed to then use this money to purchase homes in the area for two-and-a-half times their fair market value.⁷ In this neighborhood, which appears merely middle-class to the casual observer, the homes are neither dilapidated nor vacant.⁸

a poorly written statute.") (emphasis added); see also Virginia Young, *Missouri House Panel Targets Tax Incentives for Businesses, Seeks Compromise on TIFs*, ST. LOUIS POST DISPATCH, Sept. 18, 1998, at B3 ("The tax-increment financing program . . . was intended to rebuild blighted areas, but it has been used to build . . . shopping malls. [S]uch projects generate no new tax revenue—they just shift retail sales from one community to another.").

Importantly, the discussion in this Note is meant to be illustrative of the many current controversies involving TIF statutes around the country. Controversy is not necessarily limited to those states with statutes substantially similar to Missouri's. State TIF statutes all have generally the same objective—the redevelopment of blighted areas. Battles over the use or abuse of TIF statutes can therefore be seen in a variety of contexts other than those discussed with reference to Missouri in this Note. Therefore, the discussion and proposal in this Note is broadly applicable to other state contexts. See, e.g., John Gibeaut, *The Money Chase*, A.B.A. J., Mar. 1999, at 58 (discussing controversies and litigation involving TIF districts in Texas, Illinois, and Kansas, as well as Missouri); Mike Patty, *Counties Oppose Rail Line on U.S. 36, Commissioners Object to Tax Financing to Pay for Commuter Project*, DENV. ROCKY MTN. NEWS, Mar. 17, 1999, at 30A (noting objections of various municipalities to proposal to use TIF to build a commuter rail line from Boulder to Denver when "[i]t is debatable if an increase in property value would even happen . . . and if it did whether it would be enough to repay the debt"); Daniel B. Wood, *Rebuilding America's Blighted Cities, But at What Cost?*, CHRISTIAN SCI. MONITOR, Mar. 10, 1999, at 3 (discussing controversy surrounding a plan to build a \$750 million film studio in North Hollywood and noting the lack of concern over testing the effectiveness of developments built using TIF); Tim Pareti, *Funding Plan Sought for Downtown Renovation; TIF District Extension Worries School Board*, CHI. TRIB., Mar. 12, 1999, at 5C (discussing opposition of local school board to extension of TIF district for additional 12 years).

5. See Sterling Levy, *Commercial Change in Comprehensive Plan Gains Backing*, ST. LOUIS POST DISPATCH, Sept. 14, 1998 (West Post), at 1.

6. See Young, *supra* note 4.

7. See *id.* Although the Missouri statute provides for the condemnation and taking of private land under eminent domain, the city is not invoking the doctrine in this case. This seems, however, only to have caused the developers proposing the project to increase the amount of requested TIF money in order to afford the buyouts. See Lowell, *supra* note 4 ("The Olivette development team says it needs TIF due to the significant extraordinary cost in developing an urban project of this magnitude. What they mean is, it's expensive to purchase existing owner-occupied single-family homes at above market value and knock them down."). Developers later decided that if 75% of homeowners in the area would agree to sell, they would acquire the remaining 25% through condemnation. See Linda M. Billingsly, *Developers Cut Price They Will Pay for Homes in Olivette*, ST. LOUIS POST DISPATCH, Oct. 12, 1999 (Metro), at B1.

8. The Olivette City Council has since decided to put approval of the project to a vote of Olivette residents because the project became so politically charged. The City Council first delayed its project approval vote, then declared the project dead. See Dan Mihalopoulos, *Olivette Leaders Say Mall Project*

This proposed commercial development is controversial because some argue that using the TIF statute to change a thriving residential neighborhood into a bustling commercial one violates the spirit, if not the letter, of the TIF law.⁹ Further, the development itself would almost certainly not bring any new retailers to the area.¹⁰ The proposed development is, in fact, just minutes away from a new, substantially similar development.¹¹

is Dead, ST. LOUIS POST DISPATCH, Aug. 11, 1999, at A1; Dan Mihalopoulos, *Olivette Postpones Vote on Development*, ST. LOUIS POST DISPATCH, July 28, 1999, at B1. Two weeks later, the project was back, and the City Council voted both to approve the project and to put final approval of the project to a referendum vote of Olivette residents in February, 2000. See Dan Mihalopoulos, *City Council Will Take up Proposal Tonight, But No Final Vote is Expected*, ST. LOUIS POST DISPATCH, Aug. 24, 1999, at B1; Dan Mihalopoulos, *Olivette will Hold Referendum on Shopping Center Proposal*, ST. LOUIS POST DISPATCH, Sept. 8, 1999, at B1.

Since the City Council's meeting on September 7, the project's developers have lowered their buyout offers to homeowners in the TIF district, and Olivette residents, both for and against the project, have become increasingly disgruntled. Some have even gone so far as to file recall petitions for three City Council members and Olivette's Mayor. See Linda M. Billingsly, *Olivette Moves Forward on Bill that Might Spark Recall*, ST. LOUIS POST DISPATCH, Nov. 15, 1999 (West Post), at 1 (noting that "Olivette City Council members must approve legislation that places their own recalls from office on the ballot Feb. 8," the same day Olivette residents vote on the proposed project); Linda M. Billingsly, *Wrangling Over Development Continues to Engulf Olivette*, ST. LOUIS POST DISPATCH, Nov. 11, 1999 (West Post), at 1 (reporting that developers have decreased their offers to residents from \$175,000 to \$160,000). Until the vote in February, the city, residents in favor of the project, and residents against the project are all using their best lobbying efforts to persuade those that remain undecided. See Linda M. Billingsly, *Olivette Officials Hope PR Firm will Help Them Get Out the Word on Mall Project*, ST. LOUIS POST DISPATCH, Oct. 18, 1999 (West Post), at 1 (noting that Olivette hired a public relations firm through mid-February to "disseminate information" about the project).

9. See generally Todd A. Rogers, *A Dubious Development: Tax Increment Financing and Economically Motivated Condemnation*, 17 REV. LITIG. 145, 171-72 (1998) ("A . . . stronger objection to TIF is that it benefits an already privileged class—private developers—at the public's expense. The most basic concern is that TIF statutes are being used as a tool of the private developer in areas absent of blight.").

10. See Lowell, *supra* note 4.

11. See *In a TIF Tizzy*, ST. LOUIS POST DISPATCH, Aug. 10, 1998, at B6. The proposed Olivette development, named Olivette Town Center, would include a Wal-Mart, a Sam's Club, and another large home store, in addition to numerous smaller retailers. The similar development, less than a year old and located only two miles away on Interstate 170, includes a Target, one of Wal-Mart's primary competitors, in addition to numerous other, smaller retailers. Further, both a Wal-Mart and a Sam's Club are located within a fifteen-minute drive of the proposed Olivette development. See Lowell, *supra* note 4.

The developers involved in the Olivette development are not asking the city to use its eminent domain powers to force buyouts of the homes in the area. This tactic has been used in the proposed West County Mall expansion plan, however. See *infra* notes 13-14 and accompanying text. Because the Olivette developers are *not* seeking the use of eminent domain, they are forced to offer more to homeowners who are reluctant to sell. This has increased the amount of TIF money the developers are seeking from the city to help offset their costs. See Levy, *supra* note 5.

In fact, the "crazy-quilt" pattern of more than ninety municipalities in St. Louis county has no doubt fostered balkanization among these geographically proximate and demographically similar areas. Because each municipality is separately governed, each is free to compete with the others, to the detriment of all, for any and all commercial development. This competition, in turn, creates an incentive for private developers to pit one municipality against the other in order to gain the most beneficial tax treatment, at

A second controversial TIF project in St. Louis County involves a large regional shopping mall, the owners of which are seeking TIF money to expand. The owners of a second, competing, regional mall sued to enjoin the project, arguing the area does not qualify as blighted under the TIF statute.¹² The plaintiffs maintain that public money should not be used to help the mall expand, simply to enhance its competitiveness within the local and regional shopping mall market.¹³

The heated debate surrounding these two developments serves to highlight some of the flaws in the Missouri TIF statute that allow the law to be used for projects adverse to its true redevelopment origins.¹⁴ In general, the broadly-

the cost of hindering economic development for the region as a whole. *See Young, supra* note 4.

Even though the municipalities in St. Louis county are governed independently, municipal planning from a regional perspective makes economic sense for the region's taxpayers. From a TIF perspective, such regional consideration would "evaluate whether a TIF-financed development in one area actually increases overall tax revenue or merely transfers revenue from one jurisdiction to another as shoppers transfer their spending dollars from existing stores to new ones." Lowell, *supra* note 4. A more narrow definition of blight under the Missouri TIF statute would ensure that economic planning would take place on a more regional scale and that only the neediest sites, falling under the spirit of the TIF law, would acquire financing to foster redevelopment.

12. On September 28, 1999, a St. Louis County Circuit Judge ruled that the city of Des Peres did not break the law when it declared part of Des Peres blighted. Thus, mall owners may move forward with the mall renovation, and the plaintiffs in the action are left to appeal the judge's decision to the Missouri Court of Appeals. *See William C. Lhotka, Judge Oks West County Center Subsidy*, ST. LOUIS POST DISPATCH, Sept. 29, 1999, at A1. The judge based his holding on the grounds that he had no discretion to determine whether the project area was actually blighted, but could only review the city's determination for bad faith or fraud. *See Move Mall Wars to Legislature*, ST. LOUIS POST DISPATCH, Oct. 3, 1999, at B2. Apparently, however, the judge criticized the city's decision to declare the area blighted, noting the irony of a blight declaration in one of the wealthiest areas of St. Louis County. *See id.* The plaintiffs have appealed the decision to the Missouri Court of Appeals, and construction on the expansion is scheduled to begin in February, 2000. *See Linda M. Billingsly, Firm, Des Peres Residents File Appeal of TIF-Financing for West County Center*, ST. LOUIS POST DISPATCH, Nov. 18, 1999 (West Post), at 1.

13. *See In a TIF Tizzy, supra* note 11. Some critics of proposed TIF sites in St. Louis have noted that, in order to be financially viable, developments of the type currently proposed would need to pull traffic away from nearby existing competitors, rather than bringing new retailers or retail categories to the area. *See Kathleen Hill, Use of Tax Financing for Development Draws Fire*, ST. LOUIS POST DISPATCH, Sept. 14, 1998 (West Post), at 5.

Another relevant criticism with regard to this particular project, considering the multitude of municipalities competing for private development, is that some wealthier municipalities could use TIF to lure development from poorer areas. *See Steve Birmingham, 2 Firms Jockey for Project, Pledge Low Tax Financing*, ST. LOUIS POST DISPATCH, Sept. 14, 1998 (West Post), at 1.

The implication of this is that the new development does not create new, high paying jobs, but just shifts low-paying retail jobs from other sites in the area, since, in general, large retail developments do not create consumer demand, they merely redistribute it. *See Hill, supra*. Many of these "part-time, low-wage, low-benefit" jobs will not even raise a person's income above the income level required to remove the person from eligibility for food stamps, Medicaid, or earned income tax credits. Because of this, in addition to merely shifting jobs, any new jobs that might be created are only a further drain on taxpayers. *See When Tax Help Goes to Those Not in Need*, ST. LOUIS POST DISPATCH, Aug. 16, 1998, at B3.

14. *See Rogers, supra* note 9, at 161 ("TIF statutes trace their origins to the urban redevelopment

worded statute allows many projects to technically fall under the statute's definition of "blight," when in fact the economic health of these areas is sufficient to garner adequate private investment.

This, in turn, encourages the abuse discussed above. Municipalities have an incentive to offer large TIF packages to private developers to entice them to build within the particular municipality. While this brings additional revenue to the municipality, it is contrary to the intent of the TIF statute as a tool of last resort. Such distortion leads to the "redevelopment" of areas neither intuitively nor rationally considered "blighted."¹⁵

The effects of the incentives discussed above could hold dire consequences for the economic health of the region, as well as the individual municipalities which may overburden themselves with debt and not realize increased revenues of the magnitude anticipated. This further highlights another inadequacy of the Missouri TIF statute that may not be evident from the above discussion: its

and slum clearance statutes of the 1930s and 1940s."); see also MO. REV. STAT. § 353.020 (1994).

15. Even more egregious abuses of TIF statutes have been noted in other states. In Illinois, for example, Chicago's South Loop neighborhood was redeveloped under the state's TIF statute, which is substantially similar to the Missouri statute. See 65 ILL. COMP. STAT. 5/11-74.4-1 (West 1997). South Loop was home to old warehouses, office buildings, a substantial amount of affordable housing, and the city's largest homeless shelter. See Jolin, *supra* note 3, at 91.

After Chicago declared the area a TIF district, the demographics of the area quickly shifted, and homes worth more than \$300,000 became the primary landmarks in the area. See *id.* This influx of money into the area drove out a number of the older, low-income residents as well as the homeless shelter. See *id.* Therefore, while the TIF district had the effect of redeveloping the neighborhood, it did so at the expense of the area's long-term residents, who reaped none of the benefits of the inflow of money.

Critics of this project maintain that, although the neighborhood may have needed public assistance, TIF projects should not be used to displace poor residents in favor of wealthy ones. See *id.* Even if allowing TIF for the area was a good use of money, the benefits of the project were misallocated, and those whom the TIF statute was designed to help were forced to leave. See *id.* This again shows distortion of the underlying intent of TIF statutes.

Illinois' TIF statute has also been the subject of more serious litigation than seen in Missouri. One Chicago suburb attempted to use TIF to drive out its Hispanic population by declaring the two largely Hispanic neighborhoods in the suburb blighted under the TIF statute. This declaration made the neighborhoods subject to condemnation and those residents subject to relocation. See *id.*

Although residents successfully challenged this TIF district in federal court, the fact that municipal officials in Chicago even conceived of using the statute for discrimination points to its obvious flaws. See *Hispanics United v. Village of Addison*, 958 F. Supp. 1320 (N.D. Ill. 1997). Listed by the village as "blight" conditions, as required under the Illinois TIF statute, were: "dust on windowsills, missing toilet paper roll holders, small cracks in linoleum floors, paint spots on woodwork or baseboards, stained porcelain bathroom fixtures, and unwashed dishes in kitchen sinks." *Hispanics United v. Village of Addison*, No. 94C-6074 (N.D. Ill. Dec. 23, 1994) (complaint para. 45, 58(e), 73(e)). Residents challenged the declaration under the Fair Housing Act, 42 U.S.C. §§ 3601 et seq. (1994). See Jolin, *supra* note 3, at 91-92.

Such abuses of the TIF statute in Illinois led to a number of proposed reforms during the 1997-98 session of the Illinois Legislature. See H.R. 525-90, 90th Leg., 1st Reg. Sess. (Ill. 1997); see also *infra* note 51 and accompanying text.

exemption from state constitutional limits on municipal debt. This means that voter approval is not required for a TIF project,¹⁶ and that municipalities have no incentive to weigh the costs and benefits of a TIF project against other possible expenditures when preparing annual budgets.

These criticisms raise the question of whether any conceivable benefits from the TIF statute could possibly outweigh the potentially disastrous costs. Tax increment financing is an urban redevelopment tool that has been utilized for nearly fifty years by local governments as part of a trend toward partnerships between local governments and private developers.¹⁷ Properly used, as its origins and history dictate,¹⁸ TIF can be a powerful tool for revitalization of declining urban areas¹⁹ and is important in the wake of declining federal financial assistance for urban renewal projects.²⁰

Since TIF statutes gained wide acceptance during the late 1970s and early 1980s, however, many states have recognized that TIF statutes hold enormous potential for abuse and have begun to reform them.²¹ This Note argues that Missouri, instead of recognizing the potential for abuse inherent in its TIF statute, has instead allowed its TIF statute to be abused. Using examples of TIF abuse to highlight the flaws in the TIF statute, this Note calls for statutory reform to prevent such abuses in the future.²²

Part II of this Note first reviews the history and policy behind TIF statutes in general. It then focuses on the Missouri TIF statute, explaining how the law functions, how the Tax Reform Act of 1986 affects TIF projects, and how the

16. See MO. REV. STAT. § 99.810 (1994); see also *infra* Part II.B. The statute requires a redevelopment plan with a general description of the program, a finding of blight and a public hearing, but no vote other than that of the redevelopment commission. See MO. REV. STAT. § 99.820.1(1) (1994).

17. See Daniel R. Mandelker, *Public Entrepreneurship: A Legal Primer*, 15 REAL EST. L.J. 3 (1986).

18. See *infra* Part II.A.

19. See Jonathan M. Davidson, *Tax Increment Financing as a Tool for Community Redevelopment*, 56 U. DET. J. URB. L. 405 (1979).

20. See Mandelker, *supra* note 17, at 15.

21. Minnesota is one example. In 1979, before Missouri even implemented a TIF statute, Minnesota recognized the *potential* for abuse and revised its statute. See *id.* at 18; see also MINN. STAT. §§ 469.174-469.179 (1994); Note, *The 1979 Minnesota Tax Increment Financing Act*, 7 WM. MITCHELL L. REV. 627 (1981). The revisions to the Minnesota statute required all private developers in TIF districts to comply with specified disclosure, planning, and reporting requirements. Further, the revised statute shifts to the developer more of the risk resulting from an incomplete project. See Mandelker, *supra* note 17, at 17.

22. Others agree with the idea of urgent need for TIF reform. In addition to the numerous newspaper articles cited above and public outcry over the current use of the Missouri TIF statute, both Republican and Democratic legislators introduced TIF reform proposals in the Missouri Legislature during the 1997-98 session. See H.B. 131, 89th Leg., 1st Reg. Sess. (Mo. 1997), H.B. 589, 89th Leg., 1st Reg. Sess. (Mo. 1997). For the text of one of these bills, see *infra* note 51.

TIF statute, as presently constituted, creates potential for abuse. By focusing on the implementation problems of the Missouri TIF statute, Part III of this Note considers caselaw from states holding TIF projects subject to constitutional debt limitations and states holding the opposite. Finally, Part IV proposes two revisions to the Missouri TIF statute: imposing a stricter definition of "blight" and subjecting TIF debt to the municipal debt limit imposed by the state constitution. As part of the proposed revisions, this Note encourages broad reform of all TIF statutes subject to abuses similar to those found in Missouri.

II. HISTORY OF TAX INCREMENT FINANCING AS A TOOL FOR URBAN REDEVELOPMENT

California was the first state to implement tax increment financing in 1952.²³ The idea was conceived when Los Angeles had trouble gaining enough votes to raise the local share required to match federal urban renewal funds.²⁴ Since then, forty-three other states²⁵ have enacted TIF legislation and have increasingly used TIF as the primary financing tool for local redevelopment.²⁶

23. See Dudley, *supra* note 2, at 77; see also CAL. HEALTH & SAFETY CODE §§ 33670-33676 (West 1994 & Supp. 1999).

24. See 42 U.S.C. § 1453(a)(2)(B) (1994). Cities with a population over 50,000 were required to finance a third of the redevelopment project costs to match a grant of funds covering two-thirds of the local project costs. See Davidson, *supra* note 19, at 406 n.5.

25. See, e.g., ARIZ. REV. STAT. § 36-1488.01 (1994); FLA. STAT. ch. 163.335 (1994); 65 ILL. COMP. STAT. 5/11-74.4-1 (West 1994); IND. CODE § 36-7-14-27 (1994); MINN. STAT. §§ 469.174-469.179 (1994); NEB. REV. STAT. § 18-2102 (1994); OHIO REV. CODE ANN. § 725.01-725.11 (Anderson 1994); WIS. STAT. § 66.46 (1994).

Although California passed its TIF statute in 1952, the majority of states, including Missouri, waited almost thirty years to follow suit. "This fact tends to support the idea that economic growth may precede TIF adoption, because the national economy as a whole expanded during the 1980s." Fred Allen Forgey, *Tax Increment Financing: Equity, Effectiveness, and Efficiency*, 32 ICMA MUN. YEARBOOK 25 (1993).

Two states enacted TIF statutes between 1951 and 1960, four states between 1961-70, 11 states between 1971-75, 20 states between 1976-80, and the remainder after 1980. See Huddleston, *supra* note 3, at 33 n.1.

Moreover, almost every state has wrestled with challenges to its statute's constitutionality. See, e.g., *City of Tucson v. Corbin*, 623 P.2d 1239 (Ariz. Ct. App. 1980); *Denver Urb. Renewal Auth. v. Byrne*, 618 P.2d 1374 (Colo. 1980); *State v. Miami Beach Redev. Agency*, 392 So.2d 875 (Fla. 1980); *People ex rel. Canton v. Crouch*, 403 N.E.2d 242 (Ill. 1980); *South Bend Pub. Transp. Corp. v. City of South Bend*, 428 N.E.2d 217 (Ind. 1981); *Richards v. City of Muscatine*, 237 N.W.2d 48 (Iowa 1975); *State ex rel. Schneider v. City of Topeka*, 605 P.2d 556 (Kan. 1980); *Miller v. Covington Dev. Auth.*, 539 S.W.2d 1 (Ky. 1976); *City of Minneapolis v. Wurtele*, 291 N.W.2d 386 (Minn. 1980); *R.E. Short Co. v. City of Minneapolis*, 269 N.W.2d 331 (Minn. 1978); *City of Sparks v. Best*, 605 P.2d 638 (Nev. 1980); *Meierhenry v. City of Huron*, 354 N.W.2d 171 (S.D. 1984); *Metro. Dev. & Hous. Agency v. Leech*, 591 S.W.2d 427 (Tenn. 1979); *Salt Lake County v. Murray City Redev.*, 598 P.2d 1339 (Utah 1979); *Tribe v. Salt Lake City Corp.*, 540 P.2d 499 (Utah 1975); *Sigma Tau Gamma Fraternity House Corp. v. City of Menomonee*, 288 N.W.2d 85 (Wis. 1980).

26. See Huddleston, *supra* note 3, at 29.

**RECLAIMING THE INTENT:
TAX INCREMENT FINANCE IN THE KANSAS CITY
AND ST. LOUIS METROPOLITAN AREAS**

— *Executive
Summary &
Conclusion*

Thomas Luce
Ameregis, Inc.

A Discussion Paper Prepared for
The Brookings Institution Center on Urban and Metropolitan Policy

April 2003

EXECUTIVE SUMMARY

Tax increment finance (TIF) is a popular and potentially powerful tool for places that need economic development the most yet have the least to spend. By allowing jurisdictions to use portions of their tax base to secure public-sector bonds, the mechanism allows fiscally strapped localities to finance site improvements or other investments so as to “level the playing field” in economic development.

However, poorly designed TIF programs can cause problems. Not only can they increase the incentives for localities to engage in inefficient, zero-sum competition for tax base with their neighbors. Also, lax TIF rules may promote sprawl by reducing the costs of greenfield development at the urban fringe. It is therefore critical that state legislatures design TIF rules well.

In view of this, an analysis of the way TIF is designed and utilized in Missouri shows that:

- Missouri law creates the potential for overuse and abuse of TIF. Vague definitions of the allowable use of TIF permit almost any municipality, including those market forces already favor, to use it. Weak limits on its use for inefficient inter-local competition for tax base touch off struggles between localities. And the inclusion of sales tax base in the program tilts it toward lower-wage jobs and retail projects, which rarely bring new economic activity into a region.**
- Thanks to these flaws, TIF is used extensively in high-tax-base Missouri suburban areas with little need for assistance in the competition for tax base. This is especially true in the St. Louis metropolitan area. There, TIF money very frequently flows to purposes other than combating “blight” in disadvantaged communities—its classic purpose. In fact, less than half of the 21 St. Louis-area cities that were using TIF in 2001 were disadvantaged or “at-risk” when evaluated on four indicators of distress. On another measure, just seven of the 20 suburban areas using TIF fell into the “at-risk” category.**
- TIF is also frequently being used in the outer parts of regions—particularly in the St. Louis area. Most notably, only nine of the St. Louis region’s 33 TIF districts lie in the region’s core. Conversely, 14 of the region’s 38 TIF districts lie west of the region’s major ring road (I-270). These districts, moreover, contain 57 percent of the TIF-captured property tax base in the region. By contrast, the Kansas City region shows a pattern more consistent with the revitalization goals of TIF. The vast majority of the districts lie in the region’s center city, though the huge size of the city means many are still geographically far-flung.**

In sum, poorly designed TIF laws are being misused at a time when state and local fiscal pressures require every dollar be spent prudently. As a result, a potentially dynamic tool for reinvestment in Missouri’s most disadvantaged communities threatens to become an engine of sprawl as it is abused by high-tax-base suburban areas that do not need public subsidies.

For these reasons, Missouri would be well-served by significant reforms in the laws governing TIF:

- **The allowable purposes for TIF should be more strictly defined to target its use to places with the most need for economic development.**
- **Higher level review of local determinations that TIF subsidies will support net contributions to the regional or state economy (the “but-for” requirement) should be implemented.**
- **Local TIF administrators should be required to show that TIF subsidies are consistent with land-use and economic development needs both locally and in nearby areas.**

If such reforms were put in place, TIF could be returned to its attractive main purpose: that of providing resources that would not otherwise be available to localities that badly need them to promote needed economic development and redevelopment.

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TIF Reform

When used to off-set the high costs of redeveloping blighted sites in poor neighborhoods, Tax Increment Financing (TIF) can be an effective economic development tool. However, all too often, cities are using TIF to underwrite projects in affluent areas, to subsidize construction on undeveloped land, and to finance big-box retail.

TIF allows a municipality to issue bonds to pay for part of the costs of a new development. Property tax revenue (and sometimes sales tax revenue) generated by the development is then diverted from the public coffers and used to pay off the bonds. The diversion usually lasts for at least fifteen years and may last for as many as 30 or 40 years.

The original intent behind TIF—which has been established in 47 states—was to level the playing field between economically distressed and more vital areas by providing developers with an incentive to build in ailing urban neighborhoods. In order to use TIF, municipalities must declare the redevelopment site to be "blighted."

However, the definition of "blighted" and the rules governing TIF are so loose in many states that these subsidies are more often used to underwrite sprawling development in well-to-do suburbs—exactly the opposite of TIF's original purpose. TIF is commonly used to subsidize big-box stores and shopping malls. Examples include:

- The wealthy St. Louis, Missouri, suburb of Des Peres declared the West County Shopping Center "blighted" and provided \$30 million in TIF incentives for the construction of a new mall.
- West Des Moines, Iowa, created a \$60 million TIF district to fund the development of the Jordan Creek Mall.
- Baraboo, Wisconsin, designated a cornfield and an apple orchard "blighted" and used TIF to help Wal-Mart build a supercenter on the site.

In addition to favoring development of greenfields in outlying suburbs over infill in low-income neighborhoods, these subsidies disadvantage independent businesses. Not only do local retailers rarely benefit from TIF, but they must shoulder a higher tax burden in areas where part of the city's property tax revenue is being diverted from city services and used instead to pay off bonds that financed competing shopping centers.

A growing number of states are considering legislation to reform TIF. We believe states should:

- **Establish stronger standards for defining blight.** TIF should be limited to truly distressed areas marked by a high poverty rate and/or high unemployment rate.
- **Prohibit the use of TIF for retail development, except in areas where there is a demonstrable lack of basic goods and services, or for revitalizing historic Main Streets crippled by significant vacancy.** Subsidizing retail produces no economic benefit for the community or the region, because the sales and jobs generated by the new store are invariably offset by declines in sales and jobs at existing businesses. This may leave the city worse off financially, because existing streams of revenue will decline, while new revenue is diverted to pay off development bonds.
- **Eliminate sales tax increment financing.** Some states, including Missouri and Louisiana, allow tax increment financing through sales, rather than property, taxes. This is particularly poor public policy, because the basis for sales tax revenue is the community's disposable income, which is finite and cannot be increased by building new stores, only diverted from existing businesses.
- **Prohibit the use of TIF on undeveloped land.** Subsidizing greenfield development contributes to sprawl and undermines downtowns and urban neighborhoods, exacerbating the very problem TIF was intended to address.

More Information:

- **Wal-Mart Subsidy Watch** (<http://www.walmartsubsidywatch.org/>) - A service of **Good Jobs First** (<http://www.goodjobsfirst.org/>), this site enables users to search a massive database of Wal-Mart subsidies. Find out how much public funding the retailer has picked up in your state.
- **TIF, Greenfields, and Sprawl** (<http://www.goodjobsfirst.org/pdf/apa.pdf>) — published in the February 2008 issue of *Planning &*

Environmental Law, Greg LeRoy of Good Jobs First tells the sordid tale of how an incentive created to alleviate slums has come to subsidize upscale malls and New Urbanist developments.

- **Uneven Patchwork: Tax Increment Financing in Kansas City** ([/sites/newrules.org/files/tif_report_1.07.pdf](http://www.newrules.org/sites/newrules.org/files/tif_report_1.07.pdf)) - This study was authored by Dr. Michael Kelsay, a professor of economics at the University of Missouri, and published in 2007. Among the major findings is a pattern of awarding TIF projects to the city's most economically advantaged areas and bypassing those most in need of economic development.
- **Straying from Good Intentions: How States are Weakening Enterprise Zone and Tax Increment Financing Programs** (<http://www.goodjobsfirst.org/pdf/straying.pdf>) - Published by Good Jobs First, this report reveals that many states have weakened the criteria for establishing tax increment financing (TIF) districts. TIF was originally intended to spur development in poor neighborhoods, but many states have broadened the criteria, allowing subsidies to flow to more affluent, suburban locations. The number of TIF districts has since mushroomed. Many include big box retail. The report also highlights a handful of states that have instead tightened their TIF laws and channeled subsidies to impoverished areas.
- **Tax Increment Financing in New Orleans** (<http://www.bgr.org/pdf/reports/TIFStudy4.03.pdf>) - Published by the Bureau of Government Research, a New Orleans-based nonpartisan organization, this report offers a detailed critique of tax increment financing (TIF), particularly with regard to how it has been used in New Orleans. It argues that "subsidizing a retail operation with TIF revenues gives it an unfair advantage over its competitors." The report recommends that the state prohibit the use of TIF for retail development, except for "main street" revitalization efforts.
- **What Do TIF Subsidies Cost Denver?** (http://www.google.com/url?sa=t&source=web&ct=res&cd=1&url=http%3A%2F%2Fwww.fresc.org%2Farticle.php%3Fid%3D131&ei=idIWS7UCpiWIAfjhozTCw&usq=AFQICNGMsrf8XT6qxqZb_nm-47F_GJFS4q&sig2=X238s9hJFuB1KEJ2exnbZq) - published by the Front Range Economic Strategy Center in 2005, this report finds that TIF has grown dramatically and now costs Denver taxpayers almost \$30 million annually in foregone revenue; that many TIF projects fail to meet their revenue projections; and that they generate new public services costs that other taxpayers must shoulder.
- **Neighborhood Capital Budget Group** (<http://www.ncbg.org/tifs/tifs.htm>) - Extensive information on the use of TIF in Chicago, including how TIF works, its use for big-box retail, and suggested reforms.

Rules

TIF Reform - Missouri [proposed] (</retail/rules/tif-reform/tif-reform-missouri-proposed>)

SB 172 would limit the use of TIF to areas characterized by moderate income (less than 80 percent of the surrounding area's median income), high unemployment (one-and-a-half times the rate of the surrounding area), or low fiscal capacity (assessed value per capita is at least 40 percent lower than the surrounding area). **More** (</retail/rules/tif-reform/tif-reform-missouri-proposed>)

State

Download

Uneven Patchwork: Tax Increment Financing in Kansas City

(http://www.newrules.org/sites/newrules.org/files/tif_report_1.07.pdf)

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Uneven Patchwork: Tax Increment Financing in Kansas City
Michael P. Kelsay, Ph.D., UMKC Department of Economics
Study commissioned by ReclaimDemocracy.org/kc

Executive Summary *& Recommendations*

Kansas City, Missouri, like many other cities, uses Tax Increment Financing (TIF) as an economic development tool to attract and retain business and jobs. TIF, in theory, has the dual purpose of reducing adverse conditions like blight while enhancing the tax base. In a TIF project taxes are frozen at pre-TIF levels, and the property tax that would have been due on the increased value of the property is abated and diverted by the taxing authority (city, county, school district) to the TIF Commission which uses the money to cover its costs and to reimburse the project developer for costs covered in the TIF plan or to repay a revenue bond issued for the plan. This is called payment in lieu of taxes (PILOT)

Missouri is one of only nine states which also abate **Economic Activity Taxes (EAT)** and one of only four states which include earnings and profit taxes in addition to sales and use taxes in EATs. Kansas City, Missouri also allows Super TIF which permits the usual 50% abatement on EATs to rise to 100%.

This study of the record of Kansas City's TIF asked several specific questions: What is the overall pattern of approval of TIFs city-wide over time? For what purposes is TIF being used? How stringent are the tests used by the TIF Commission and the City Council to insure that TIF is only used where it will create the most needed economic development and not fund projects which would occur without incentives?

Findings

1. The use of TIF and particularly the inclusion of EATs has grown rapidly in Kansas City over the past few years. The amount of redirected tax revenues transferred to the TIF Commission has surged by 208% between fiscal 2000 and 2004. EATS grew by an equivalent 204%. That growth coupled with findings that actual revenues of TIF plans accounted for only 23% of projected revenues should create serious concerns among the citizens and elected officials.
2. EATs are difficult to calculate and administer. Lacking the use of a cost-benefit analysis, that would estimate the amount of substitution of economic

activity as a result of TIF, EATs may simply be redirecting taxes away from another TIF or non-TIF business and thereby negatively affecting tax revenues.

3. Demographic characteristics of the Council Districts where TIF plans have been approved demonstrate that TIF is rarely utilized in areas of the City that are most in need of redevelopment: o 88% of TIF plans are in four Council Districts (1, 2, 4, and 6) which contain the two-thirds of the city's population who are the most affluent, best educated and least likely to be members of a minority group. o The two Council Districts (3 and 5) with one-third of the population who have the lowest income and the highest rates of poverty and unemployment receive only 12% of TIFs.

4. The vagueness of Missouri law creates a situation whereby the City is encouraged to overuse TIF without performing the necessary cost-benefit analyses or adequately insuring that but for the TIF, the project would not take place. This is increasingly putting the local public sector at financial risk.

5. The lack of an overall policy to guide the use of TIF means that TIF is not necessarily being used either in a responsible fiscal manner nor to achieve the best outcomes for the City's scarce resources.

6. There are problems in the current rules governing the TIF Commission which involve conflicts of interest, disclosure, and access of the public to the process of decision-making.

Recommendations:

1. If the Kansas City Council is to use economic development incentives to spur development, the poorer Districts need to be given additional consideration in the TIF process. The awarding of TIF or other incentives should be firmly grounded in a policy which sets priorities, adequately evaluates costs, benefits and risks and has clear goals shaped by an overall economic development plan.

2. The City needs to implement a comprehensive TIF policy such that TIF is used to achieve clear and substantial public benefits while protecting the financial condition of the City. Consideration should be given to "social" as well as fiscal effects of the policy.

3. The TIF Commission should be funded through the general fund rather than by the Commission receiving a portion of the redirected tax dollars that are generated by approved TIF plans. By funding the TIF Commission through general funds, administrative and operating costs would be more transparent to the taxpayers of Kansas City and a built-in conflict of interest would be eliminated.

4. As a component of the TIF policy, the City Council should require the use of clawbacks which tie incentives to performance. Specified levels of performance, and the consequences for not meeting them, should be agreed upon by the City

and the developer in a legally binding contract. Consequences for not meeting the specified performance measures would include, but not be limited to (1) rescission of the incentive and reimbursement of the incentives including abated taxes and (2) penalties and fines for firms that do not meet certain performance measures, (e.g., specified job creation targets or relocating after receiving incentives).

5. The Kansas City Council should limit TIF Project funding to PILOTs and cease funding TIFs with EATs until an empirical analysis is made of the shifting of economic activity as a result of the TIF. A proposed methodology for such an analysis is in the full report. Such analysis may determine that EATs are rarely a truly beneficial form of funding TIF Projects.

6. The process of discussion and decision-making for TIFs must encourage far greater public participation. TIF must be opened to scrutiny with public notice beyond what is required by law. Greater transparency should be a component of TIF policy to be developed by the City Council. To that end, we recommend that the City Council constitute a citizens advisory committee to participate in the TIF approval process.

was 3.1%, while the unemployment rate in Council Districts 3 and 5 was 13.6% and 9.6%, respectively. In Council District 2, only 5.9% of its residents have a 9th-12th grade educational attainment, while Council Districts 3 and 5 have 25.8% and 17.1% of its resident with only a 9th-12th grade educational attainment.

Recommendation 1

If the Kansas City Council is to use economic development incentives to spur economic development, the poorer districts in the City need to be given additional consideration in the TIF Process. The awarding of TIF or other incentives should be firmly grounded in a policy which sets priorities, adequately evaluates costs and benefits as well as risks, and has clear goals shaped by an overall economic development plan.

Conclusion 2

The Missouri statute states that a cost-benefit analysis that is required by Section 99.810 must include a study of the fiscal impact on the jurisdiction. The purpose of the cost-benefit analysis would be to make all costs more transparent. All of the costs are not transparent under the present operating agreement between the TIF Commission and the City Council. Additionally, a properly done cost-benefit analysis would require explicit accounting for all soft program costs including, but not limited to, professional services contract, architectural costs, legal fee, market, and pre approval costs.

Additionally, a potential TIF project should be evaluated on how well it services local land use and the net economic benefits it generates for the City. The fact that a project is financially viable does not necessarily mean it is the best use of available resources.

The City of Kansas City has approved TIF plans that total \$224 million in projected reimbursement costs by 2006, yet there are no clearly defined objectives for the TIF program.

Recommendation 2

The City needs to implement a comprehensive TIF policy such that TIF is used to achieve clear and substantial public benefits while protecting the financial condition of the City. In June, 2001, preliminary discussions occurred regarding the implementation of a TIF policy in Resolution 010924. Policymakers should only use these incentive programs with clear benefits over costs. These costs and benefits should not only look at the fiscal effects of a proposed incentive program; they should also examine "social" effects as well.

Conclusion 3

The present arrangement between the City Council and the TIF Commission provides a built-in conflict of interest. As presently structured, the TIF Commission takes a portion of the redirected tax dollars that are generated by the approved TIF plans in order to cover administrative costs and operating costs. This type of funding mechanism provides a perverse incentive for excessive use of TIFs.

Additionally, the way the current operating agreement is structured, many of the current program costs are kept “off the books.”¹³ Hidden costs are more difficult to control from the City’s perspective and less transparent to the taxpayer.

Recommendation 3

The TIF Commission needs to be funded through the general fund. By funding the TIF Commission through general funds, those administrative and operating costs would become more transparent to the taxpayers of Kansas City. The requirement that funding of the TIF Commission go through the general budgetary process would ensure more transparency to the public in terms of soft program costs such as professional services contract, architectural costs, legal fees, marketing, and pre approval costs.

Conclusion 4

Analysis by the City Auditor’s office shows that TIF plans are not meeting their objectives. An analysis of TIF plans showed that almost all of the plans were not meeting their projections. In their analysis, they stated that actual revenues of TIF plans accounted for only 23% of projected revenues. Almost 50% of the plans did not meet 50% of their projected revenue streams.

Recommendation 4

As a component of the TIF policy, the City Council should require the use of clawbacks. Clawbacks are an economic term that ties incentives to performance. Specified levels of performance, and the consequences for not meeting them, should be agreed upon by the City and the proposed TIF granted in a legally binding performance contract. Consequences for not meeting the specified performance measures include, but are not

¹³ Office of the City Auditor. Performance Audit Review of the Submitted Budget For Fiscal Year 2005. March, 2004. Page 15.

limited to (1) rescission of the incentive and reimbursement of the incentives including abated taxes, (2) penalties and fines for developers/businesses that do not meet certain performance measures (e.g. specified job creation targets) or which relocate after receiving incentives.

Conclusion 5

EATs have grown dramatically since 2000. The use of Super TIFs which capture up to 100% of EATs is partially responsible for the increase in EATs incentives. In 2000, Kansas City EATs transfers to the TIF Commission were \$258,783. In 2002, Kansas City EATs transfers to the TIF Commission were \$8,818,620. When economic activity occurs in a TIF district that is partially or totally funded by EATs that would have occurred elsewhere in the City, the TIF District is partially capturing tax revenue that would have been available to fund city services. The City and the TIF Commission need to implement a methodology to capture the substitution of economic activity when a TIF is funded by EATs

Recommendation 5

Kansas City should limit TIF project funding to PILOTs and stop funding TIFs with EATs until the Kansas City Council has been provided with an empirical analysis of the estimate of the shifting of economic activity as a result of the TIF. This analysis would provide a quantifiable estimate of the truly incremental economic activity as a result of the EATs.

In a report by the City Auditor's Office, 39 of the 48 states that authorize TIF funding do not permit the use of other taxes such as sales, earnings, and utility taxes. TIF funding that permits the use of sales, earnings, and utility taxes is problematic as it is difficult to determine accurately the increment because of substitution effects related to the shifting of economic activity.

Recommendation 6

Finally, the process of discussion and decision-making for TIFs must encourage far greater public participation. TIF must be opened to public scrutiny beyond what is required by law with adequate notice and information and full debate to foster greater public accountability. This recommendation should be a component part of a TIF policy that the City undertakes, and in developing such policy, the City should constitute a citizens advisory committee to make recommendations.

Who Pays (and Who Doesn't)?
A FAIR Assessment of Local TIF Policies

Prepared by FAIR Subcommittee on Economic Development

May 2003

Introduction

Local use of tax increment financing (TIF) has increased dramatically in recent years. In the last fiscal year (2003), TIFs in Johnson County removed over \$317 million in property value from the tax rolls, diverting over \$8 million in revenues from the county, local cities, and local schools.

We have mixed feelings about TIFs. Under the right circumstances and rules, they can be an effective tool for economic development or community renewal. But we do not feel that TIF financing, *as currently practiced*, always meets these standards. And we do not think that, as a community, we have a clear grasp of their long-term implications – for taxpayers, for school funding, for county services, or for economic development. Our assessment is not driven by hostility to the idea of tax-subsidized economic development. But it is driven by the conviction that the costs of such subsidies be clear and the *public* benefits compelling. What do TIFs cost? What do we get in return?

Our analysis has four parts.

In Part I, we offer a brief explanation of TIFs and how they work.

In Part II, we summarize some of the pitfalls, and uncertain benefits of TIFs.

In Part III, we sketch the scope and impact of recent TIF policies in Iowa City.

In Part IV, we offer suggestions and guidelines intended to ensure that local TIF policies are more transparent, more accountable, and more fiscally responsible.

I. What is Tax Increment Financing?

Tax increment financing (TIF) is a form of property tax relief or abatement. At the moment a TIF district is established, existing property values (the “base”) are locked in. This base value continues to be taxed in the conventional manner, with taxes distributed among local jurisdictions including the city, the county, and the school district. Revenue from any increase in property tax values (the “increment”) is diverted, rolled back into the TIF district to pay for land clearance, public improvements, or construction costs.

TIFs grew out of older urban renewal policies and were initially aimed at especially “blighted” areas. In such settings, TIFs made sense. They allowed developers to overcome the costs and risks inherent in such investments. They created new taxable value where property values were in decline. And, by eradicating blight, they addressed “a serious and growing menace, injurious to public health, safety, morals and welfare.”

In practice, however, TIF policies no longer require a finding of blight, and are more routinely used to subsidize new investment in shopping malls. It is no longer necessary to prove that property values are declining or that new investment would not occur without a public subsidy. It is now routine to identify any increase in property value (even in the absence of genuine blight conditions) as a sufficient “public purpose.”

TIF, as currently practiced in Iowa, is little more than a tactic by which cities can compel

schools and counties (whose future revenues are diverted) and other taxpayers (who must pick up the slack) to pay for new commercial development.

II. Do TIFs Work?

Any serious assessment of TIFs must gauge both their benefits and their costs. This is actually quite difficult, in part because there is little empirical research regarding TIFs, and in part because such assessment relies on often-hazy projections of future tax values and tax revenues. Nevertheless, recent research, in Iowa and elsewhere, has raised four serious questions.

First, there is little evidence that TIFs can be effective in attracting new investment. The practice is now so common in Iowa and elsewhere; neither the state nor any of its municipalities can claim any competitive advantage. TIFs have moved from a tool that some states or cities might use to attract investment, to a virtual entitlement that states and cities are now afraid of *not* offering prospective investors. There is “little to no evidence of overall public benefit,” as economists at Iowa State concluded recently, “or meaningful discussion of the mean costs of the practice.”

Second, there is no guarantee that TIFs meet our basic economic development guidelines. In fact, the most expansive local TIFs – the Coral Ridge district and the proposed Highway 6 district – directly subsidize low-wage, no-benefit retail employment. On this score, the Highway 6 TIF not only falls short of the City’s own economic development guidelines, but adds to the public burden (Medicaid, reduced-fee school lunches, subsidized day care, etc) of mopping up after low-wage employment.

Third, the very logic of a TIF collapses outside the “blighted” setting for which they were designed. Even in areas of uneven economic growth (such as Iowa City’s commercial south side), property values increase naturally – a consequence of both market forces and inflation. Rather than creating new value, TIFs in such areas capture and divert the natural increase in property values.

Fourth, and perhaps most importantly, TIFs have real and tangible costs.

They are paid for by other property owners, who must meet the costs of economic growth while the base values in TIF districts remain frozen.

They are paid for by local taxing jurisdictions, especially schools and counties, who have no meaningful input on the creation of TIF districts.

And they are paid for by State and its taxpayers, who are (for the moment) committed to making up TIF-related shortfalls in school funding.

The following tables provide a sense of these costs. Of the over \$8 million in tax revenues diverted in fiscal 2003, cities (Iowa City, Coralville, North Liberty) lost about \$3 million, Johnson County lost just over \$1 million, school districts (ICCSd, Clear Creek) lost just under \$3.4 million (see Figure 1).

While school districts have the largest claim on the foregone revenues, they are also eligible for “backfill” assistance from the State. This has ameliorated the impact of TIFs on school funding, although we cannot expect – given the State’s ongoing budgetary crisis – that this assistance will be sustained. It is worth noting that the annual cost to the Iowa City/ Coralville Schools District, multiplied by the statutory life of a TIF (just over 20 years) under Iowa law, exceeds the \$40 million price tag for the recent school bond.

In turn, it is important to recognize that TIFs (at least in Johnson County) are municipal decisions to divert tax revenues from *all* claimants on local taxes. As Figure 2 shows, local responsibility to date rests largely on the shoulders of Coralville – although recently approved Iowa City TIFs will shift this balance in the next few years.

III. TIFs in Iowa City

While Coralville and North Liberty have been most aggressive on the TIF front, Iowa City is now following suite -- with both a spate of recently approved projects, and the proposal to create a vast new TIF district south of Highway 6 (see Table 1; Figure 4).

Table 1
Current Iowa City TIF Projects

TIF	first year	duration	total cost	average annual cost
Sycamore	2004	7 years	\$2,000,000	\$285,714
Whiteway	2003	3 years	\$85,762	\$28,587
Owens- Brockway	2005	5 years	\$695,550	\$139,110
Seabury and Smith	2005	10 years	\$781,000	\$78,100
Grandview				
Terrace	2001	10 years	\$195,000	\$19,500
Plaza Towers	2006	21 years	\$7,000,000	\$333,333
Plamor	2006	7 years	\$400,000	\$57,143
Alpla	2006	5 years	\$510,000	\$102,000
NCS (NJIP)	1998	10 years	\$1,076,058	\$107,606

Even before estimating the impact of any new TIF districts, the City has made substantive commitments in recent years that, by 2006-2007 will divert over \$1 million dollars in tax revenue in Iowa City alone (see Figure 3).

IV. Recommendations

There is an emerging consensus that Iowa's TIF policies need substantial reform. The benefits, locally or statewide, are at best unclear. And the costs, in terms of State assistance or foregone local revenues, are onerous. For these reasons alone, we think it is the wrong time to expand existing TIF districts or to create new ones. More broadly, we ask that local governments adopt or adhere to the following principles and practices:

Stricter Guidelines: Under current practice, TIF financing tends to fall between the cracks and is often not subjected the same sorts of guidelines which accompany other state or local economic development policies. Based on our analysis of local practice and the example set by TIF-reform efforts elsewhere, we suggest the following:

A "But For" Test: TIFs work only when development would not have occurred "but for" the introduction of a public subsidy. Under current practice, however, we often have little but the assurances of the developer itself that the TIF is necessary. The City should adopt a much more rigorous assessment of the necessity of a public subsidy on a case-by-case basis. Location within a TIF district should not be construed as an entitlement to TIF-financed development.

Use of Existing Economic Guidelines: TIF projects should be subject to the same "scoring" system applied to all applicants for economic development assistance. This would make it more difficult for low-wage projects to go forward unless they can "raise their scores" by offering other public benefits. Eligibility for TIF-assistance should not be an entitlement; it should be a reward for private efforts to create good jobs at good wages or to bring high value-added, targeted investments to the area.

Clawbacks: TIF awards should be based on promise *and performance*. If job creation or other targets of the original application are not met, the project should be required to reimburse the unpaid (or diverted) taxes.

Stronger Accountability: Under current practice, TIF decisions are made almost exclusively by municipalities – first with the establishment of broad TIF districts, and second with the approval of specific projects within those districts. Based on our analysis of local practice and the example set by TIF-reform efforts elsewhere, we suggest the following:

Real Consultation with Affected Tax District: The county and the school boards should have substantive representation in such far-reaching commitments of *their* future tax revenues. All TIFs should be subject to a "Joint Review Board" on which all local taxing entities are represented. Such a Board might reject a proposed TIF, or it might allow a County or a School district to opt-out.

Transparency: The City should make available, in the form of both annual reports and tax-impact statements accompanying any new proposal, a simple and transparent assessment of the full costs and benefits of any TIF districts or deals.

FOOTNOTES

Chapter 403.2(1), Iowa Code 1999.

David Swenson and Liesl Ethington, “Do Tax Increment Financing Districts in Iowa Spur Growth?” (Department of Economics, ISU, April 2002)

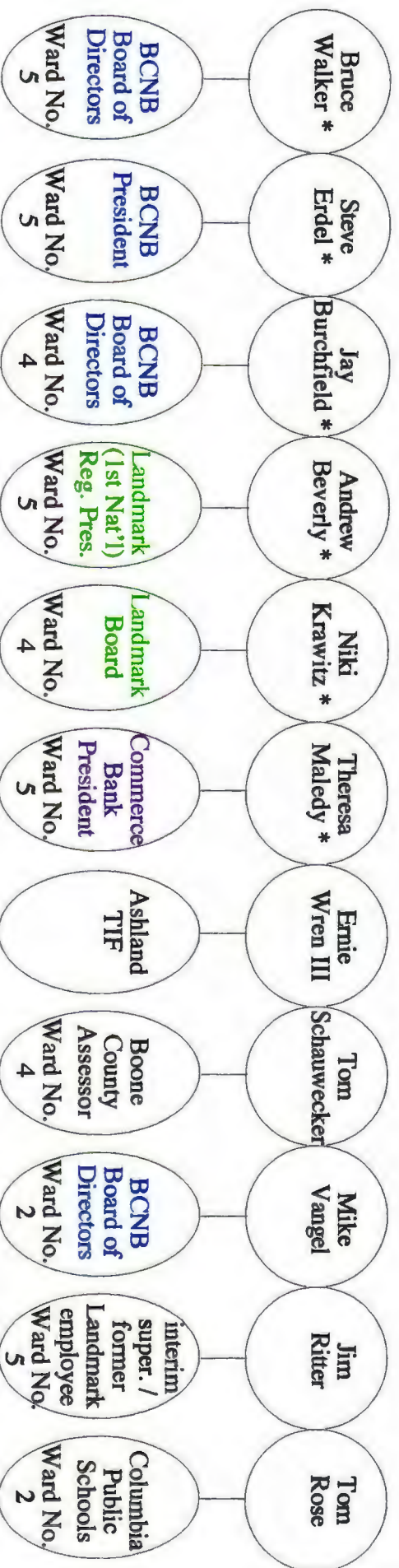
“Economic Development Policies, Strategies, and Actions for the City of Iowa City” (1995), for example, rewards companies (on a 100 point scale) up to 30 points for “job quality” – a category that includes high wages, full-time employment, employer contribution to health benefits, and provision of other fringe benefits. None of these criteria are satisfied by the “strip mall” retail employment sustained by the Highway 6 proposal.

Neighborhood Capital Budget Group [Chicago], *Who Pays for the Only Game in Town?* (2000).

See, for example, the Farm Bureau’s “STIR IOWA” Plan, available at <http://www.ifbf.org/tif.asp>.

C. A. U. T. TIF Commission Flow Chart

(Citizens Against Unfair Taxation)



NOTES

1. Ward Nos. 1, 3 & 6 unrepresented on commission
2. 64% of TIF Commission is from three banks
* mayoral appointments

ISSUES

- + Tiger Hotel received \$710,338.90 in State Historic Tax Credits in 2005
- + No "blighted" areas or potential "lost" historic sites any where in the Central Business District
- + Residential / Retail TIFs are poor public policy (no demonstrable public benefit)
- + Cash strapped Columbia School District pays 72% of the TIF bill
- + No Strings Attached
 - Tiger: change to apartments / condos
 - Sale of Properties

ISSUES continued

- + No Strings Attached continued
 - TIF sunset with change of use or ownership
 - Public should be a partner at the percentage level of TIF and receive commensurate level of profits
- + Sets up unfair tax advantages over adjacent property owners
- + Conflict of Interest between TIF applicants and lenders -- essentially TIF Commission members are voting to give themselves public money
- + A assessor is responsible for property valuation and should be independent of the TIF Commission not involved with granting process

source: Columbia Daily Tribune