

Tax Increment Financing

Background

- “Incentives must be provided for redevelopment in areas which are, or threaten to become, predominantly slum or blighted” (*South Carolina Code of Laws*, §31-6-20(A)(2))
- Used in areas with limited (and often declining) tax base and increasing demands for public services
- Developed as a response to declining federal funds and voter-mandated tax caps in California
- Allows more local control than federal and state monies
- Unlike general obligation bonds, TIF bonds are not subject to popular vote, just a vote of council
- Taxpayer rates do not change/no special assessments
- Because TIF bonds are not backed by full faith and credit of local government:
 - They’re riskier for investors
 - They do not affect a city’s bond rating
- One source estimated that \$5.50 in private funds were invested for every \$1 in TIF funds (Healey & McCormick, 1999)

South Carolina

- South Carolina’s TIF enabling legislation (*South Carolina Code of Laws*, Title 31, Chapter 6) became law in 1984
- Legislation allows up to thirty (30) years to retire TIF debt
- There have been approximately 40 TIFs in South Carolina
- Unlike many states, South Carolina’s law not convey power of eminent domain to TIF districts’ developers

South Carolina’s requirements for TIFs

1. Eligible under state law—TIF district has a legitimate public purpose

“Redevelopment project” means any buildings, improvements, including street improvements, water, sewer and storm drainage facilities, parking facilities, and recreational facilities...All such projects are to be publicly owned. (*South Carolina Code of Laws*, § 31-6-30(6))

and

The proceeds from obligations issued under authority of this chapter must be applied only for the purpose for which they were issued. (*South Carolina Code of Laws*, § 31-6-50)

2. Finding of blight

“Blighted area” means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where, (a) if improved, industrial, commercial, and residential buildings or improvements, because of a combination of five or more of the

following factors: age; dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light, or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; lack of community planning, are detrimental to the public safety, health, morals, or welfare or, (b) if vacant, the sound growth is impaired by (i) a combination of two or more of the following factors: obsolete platting of the vacant land; diversity of ownership of such land; tax and special assessment delinquencies on such land; deterioration of structures or site improvements in neighboring areas adjacent to the vacant land; or (ii) the area immediately prior to becoming vacant qualified as a blighted area (*South Carolina Code of Laws*, § 31-6-30(1))

3. Pattern of clear decline or maintenance of status quo and supporting documentation

4. Pass the “but for” test: “But for the TIF, could this project be done?” An ordinance would be required that stated that:

(i) the redevelopment project area is a blighted or conservation area and that private initiatives are unlikely to alleviate these conditions without substantial public assistance, (ii) property values in the area would remain static or decline without public intervention (*South Carolina Code of Laws*, § 31-6-80(g))

5. Minimum and maximum size:

“Redevelopment project area” means an area within the incorporated area of and designated by the municipality, which is not less in the aggregate than one and one-half acres and in respect to which the municipality has made a finding that there exist conditions that cause the area to be classified as a blighted area or a conservation area, or a combination of both blighted areas and conservation areas. The total aggregate amount of all redevelopment project areas within any one municipality may not exceed five percent of the total acreage of the municipality (*South Carolina Code of Laws*, § 31-6-30(7))

6. Interested developers and plans for real projects (TIF should not be used prospectively)

Considerations

- Other taxing entities (including school board and fire districts)
 - May opt not to participate:

The municipality may issue obligations to finance the redevelopment project to the extent that each affected taxing district consents to the redevelopment plan. The tax increment for a taxing district that does not consent to the redevelopment plan must not be included in the special tax allocation fund. (*South Carolina Code of Laws*, § 31-6-80)

- Unlike municipalities, do not benefit from increased sales taxes revenues as district is revitalized
- Displacement of TIF district residents could be an issue (but, as noted previously, TIF does not convey powers of eminent domain to developers as it does in other states)
- Size of current TIF districts relative to the City of Charleston
 - “The total aggregate amount of all redevelopment project areas within any one municipality may not exceed five percent of the total acreage of the municipality” (*South Carolina Code of Laws*, § 31-6-30(7))
 - Charleston currently has at least two TIF districts:
 - upper King Street revitalization (approved in 1993)
 - along Cooper River (approved in 1985)

Other examples

- California’s TIF legislation requires 20 percent of any bond proceeds or tax increment revenues to be set aside for LMI housing
- Baltimore is using TIFs for infrastructure for 72 townhomes starting at \$500,000
- Chicago
 - Has 135 TIF districts (July 2004)
 - Chicago used TIF in the Near North Redevelopment of Cabrini-Green, financed through a shopping center and market-rate condos—project funds will be used for parks, schools, infrastructure, and a housing project

Summary

- Financial questions
 - Will affordable housing spur private development such that the increase in property taxes will pay off the bonds?
 - What are the effects of properties taxed at a lower rate (homestead exemption or tax abatement to maintain homeownership by LMI individuals)?
 - What are the effects if there are a large number of tax-exempt properties (housing authority properties, city- and county-owned properties, churches and church-owned properties)?
 - Would the upcoming reassessment have any effect? Is there any possibility of getting the TIF district in place before the reassessment (to get a substantially lower base valuation for the target area)?
- Legislative changes may be needed:
 - To specify affordable housing as a public purpose
 - To require some percentage of TIF revenues to be used for affordable housing (as in California)

- The “but for” questions would need to be addressed in the hot development market we are currently seeing, especially on the peninsula. A finding would be required that redevelopment would not reasonably be expected to occur in the blighted area, and that the area would remain the same or continue to decline, *unless* the local government invested its money in the project. This may be challenged for any proposed TIF district on the peninsula given the rate of private investment currently occurring in most “blighted” areas.
- A residential TIF may be an option for housing in undeveloped areas. Residential TIFs are structured to pay for infrastructure, and the bonds are paid off by property tax increases as land is developed. The financial questions outlined previously would still need to be considered.

Sources

Healey, L. & McCormick, J.F. (1999). Urban revitalization and tax increment financing in Chicago. *Government Finance Review*, Dec., p. 27-30.