

Bond Case Briefs

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Hendersonville, IDB Intervene in TIF Suit to End It.

The Hendersonville Board of Mayor and Aldermen and the Hendersonville Industrial Development Board each voted last week to jointly intervene in a lawsuit to which neither had been a party solely for the purpose of settling the suit in favor of a major bank.

As part of a negotiated settlement after a three-year-long dispute, both bodies voted to intervene in the contentious Tax Increment Financing lawsuit that Sumner County filed against Fifth Third Bank and Fifth Third Securities in February 2013. Sumner County voted June 16 to settle the lawsuit after verbal negotiations involving County Executive Anthony Holt and County Commissioners Paul Decker and Paul Goode.

"We are intervening in the lawsuit for the sole purpose of agreeing to the settlement and agreeing to be bound by the settlement," Hendersonville attorney John Bradley explained at the June 24 Finance Committee meeting. "That ends it."

"That's a great plan," responded Chairman Fred Qualls who serves as BOMA's representative to the IDB.

"Fifth Third Bank, for obvious reasons, wants to be sure that once they settle with Sumner County that (neither) the city of Hendersonville nor the Industrial Development Board will take the same sort of action against them. So, what they're asking us to do is to join in and just for the purpose of saying that we agree with this settlement and we're not going to bring a separate lawsuit against Fifth Third Bank. It's the prudent thing to do," Bradley stated during the BOMA meeting.

As a result of the settlement, there will be no adverse effect on the bonds, according to Bradley.

The county's lawsuit against Fifth Third alleged the illegal use of interest rate swap agreements for the tax increment financing bond issues that paid for infrastructure in Indian Lake Village.

The settlement explicitly states that the IDB "had the full power and authority to enter into the Fifth Third Swaps, and those contracts are valid and fully enforceable in accordance with their terms." In addition: "Neither the County, the IDB, nor the City shall deny or contest the validity or enforceability of those contracts in any future proceedings."

Each side will pay its own attorney fees.

The county commission vote on June 16 was 18-5. The BOMA vote had one no vote and one abstention. The IDB vote was unanimous.

Jesse Hughes, For The Hendersonville Star News
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