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Appellate Court Upholds TIF District Levy and Collection of Taxes.

The Illinois Appellate Court recently upheld the actions of a city council in its establishment and implementation of a TIF district (*Devyn Corp. v. City of Bloomington*). In this case, the Court addressed the adequacy of a TIF district's financial statements as well as when a TIF district's authority to collect taxes terminates.

This case arises out of the creation of the Downtown Bloomington Tax Increment Redevelopment Plan ("the TIF District") by the Bloomington City Council in December of 1986. The TIF District was scheduled to last 23 years and had an estimated date of completion of December 21, 2009. Through the duration of the TIF District, the city generated approximately \$1.9 million, which was used to fund a number of projects focused on infrastructure improvements within the TIF District. During the city council meeting to approve the use of funds from the TIF District, Devyn Corp. objected, stating that the City's use of the funds was a violation of the TIF Act. Soon thereafter it filed a complaint alleging that the City's financial statements failed to account for certain expenditures and that the City unlawfully appropriated taxes from the TIF District by collecting taxes after the December 21, 2009 estimated date of completion.

The trial court found in favor on the City on both issues, holding that Devyn Corporation failed to establish that it lacked an adequate remedy at law to obtain the financial statements of the City regarding the funds collected from the TIF District. Additionally, the trial court held that the estimated date of completion for the TIF District served only as an estimate and therefore did not bar the City from levying taxes after December 21, 2009.

On appeal, the Fourth District Appellate Court affirmed the trial court's ruling. Specifically, the Court found no basis for an equitable accounting of the funds received and spent from the TIF District since Devyn Corp. could also obtain this information through the Freedom of Information Act or through discovery. The Court noted that Devyn Corp. did in fact make such a request after filing this lawsuit and received all financial information that would have been turned over in an equitable accounting. With respect to the estimated date of completion, the Court held that the legislature's intent was an estimate as opposed to a hard date of termination. As such, the City's levy and collection of incremental taxes on December 28, 2009 (after the estimated date of completion) was lawful.

This decision ultimately preserves the wide latitude municipalities are given in administering TIF Districts. Given this wide latitude afforded to municipalities, other taxing agencies should make the most of all the opportunities available to them to influence and monitor the creation of TIF Districts.

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