

Bond Case Briefs

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TAX INCREMENT FINANCING - ILLINOIS

Board of Education of Winfield School District 34 v. Village of Winfield

Appellate Court of Illinois, Third District - February 4, 2026 - N.E.3d - 2026 IL App (3d) 250182 - 2026 WL 307080

School boards brought action against village, challenging creation of tax increment financing (TIF) district and arguing village did not meet requirements of the Tax Increment Allocation Redevelopment Act (TIF Act).

After village's motion for partial summary judgment was granted, the Circuit Court granted village's motion for summary judgment, finding village met all TIF Act requirements to form TIF district. School boards appealed.

The Appellate Court held that:

- TIF district satisfied "but for test";
- Fact that some of the parcels in TIF district were owned by governmental entities did not preclude finding that "but for test" was satisfied;
- Fact that 11 of 51 parcels in TIF district were landscaped greens did not preclude finding that TIF Act's contiguity requirement was satisfied;
- Village demonstrated "lack of community planning" with respect to parcels in TIF district;
- Parcels in proposed TIF district satisfied "deterioration" factor for designating district as conservation area under TIF Act;
- Deposition testimony of school boards' expert did not create genuine issue of material fact sufficient to defeat summary judgment in favor of village; and
- Village's removal of parcels from prior TIF district and establishment of new TIF district consisting of only those parcels did not constitute improper extension of prior TIF district.

Tax increment financing (TIF) district established by village under Tax Increment Allocation Redevelopment Act (TIF Act) satisfied "but for test," that is, village demonstrated the property had not been subject to growth and development through private enterprises and, "would not reasonably [have] be[en] anticipated to be developed" without TIF plan, even though hospital which owned 34 of the 51 parcels within district executed development agreement with village 14 months prior to creation of TIF district; development agreement was underpinned by TIF plan and one would not have happened without the other, and parcels in TIF district were previously located in a prior TIF district, indicating that a TIF district was necessary for development.

Fact that some of the parcels in tax increment financing (TIF) district established by village under Tax Increment Allocation Redevelopment Act (TIF Act) were owned by governmental entities did not preclude finding that establishment of district satisfied "but for test," that is, that the property had not been subject to growth and development through private enterprises and, "would not reasonably [have] be[en] anticipated to be developed"; determination under "but for test" did not look at each parcel separately, but rather at the subject property as a whole, and nothing would have prohibited

sale of government property to private developer at later date.

Fact that 11 of 51 parcels in tax increment financing (TIF) district created by village under Tax Increment Allocation Redevelopment Act (TIF Act) were landscaped greens that arguably would not benefit from TIF district did not preclude finding that Act's contiguity requirement was satisfied, even though it would not have been satisfied without the 11 parcels; TIF Act did not require that every single parcel in TIF district substantially benefit from creation of district, rather statute only required current improvements must have substantially benefited and that property as a whole benefited, and parcels at issue that could substantially benefit included, inter alia, roadways, water and sewer systems, public parking facilities, and basic improvements to streetscape.

Village demonstrated "lack of community planning" with respect to parcels in tax increment financing (TIF) district it established under Tax Increment Allocation Redevelopment Act (TIF Act), supporting the validity of district's establishment; although village had entered into development agreement with hospital which owned 34 of the 51 parcels, 14 months prior to creation of the TIF district, it was undisputed improvements in TIF district were either developed prior to implementation of community plan or as result of the development agreement, development agreement was executed with understanding TIF district would follow, and businesses interested in occupying new retail spaces indicated they would not do so absent TIF incentives.

Parcels in proposed tax increment financing (TIF) district satisfied "deterioration" factor for designating district as conservation area under Tax Increment Allocation Redevelopment Act (TIF Act); signs of disrepair included damaged signage, excessive wear and tear to facades, entryways in poor maintenance, crumbling surface improvements, and potholes causing water retention.

Deposition testimony of school boards' expert that, although he found "some deterioration documented" in eligibility report for proposed tax increment financing (TIF) district, he had his doubts that the cracks in the parking lots and sidewalks were sufficient to prove deterioration under the Tax Increment Allocation Redevelopment Act (TIF Act), was devoid of any reasoning, and thus, could not create genuine issue of material fact sufficient to defeat summary judgment in favor of village regarding its determination that "deterioration" factor for designating proposed district as conservation area under TIF Act was satisfied.

Village's removal of parcels from prior tax increment financing (TIF) district and establishment of new TIF district consisting of only those parcels did not constitute improper extension of prior TIF district under Tax Increment Allocation Redevelopment Act (TIF Act); TIF Act did not expressly prohibit parcels from being included in TIF district if they were once included in another TIF district, prior TIF district was not extended, not all of the parcels in prior district were placed in new district, prior district still existed separate and apart from new district, and new equalized assessed values (EAV) were established for parcels in new district.