REAL ESTATE WEEKLY

July 18, 2012

Cuomo introduces improved TIF law

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Municipal governments in New York State have received a shot-in-the-arm from Governor Cuomo, in the form of his Economic Development Agenda reforms to New York's Tax Increment Financing (TIF) law.

Part of the recently-enacted New York State budget, these long-sought after provisions have now expanded TIF eligibility requirements, allowing the almost 20-year-old program to generate greater tax revenue and expand its potential.

A little-known but powerful economic development tool, Tax Increment Financing can now be effectively utilized in New York for the first time thanks to Governor Cuomo's leadership and the reform provision which now offers school districts the right to opt-in to TIF-funded redevelopment plans.

Tax Increment Financing allows municipalities the authority to issue bonds to raise capital, thereby promoting economic development through investments in blighted areas.

These bonds are used for public works infrastructure improvements and certain other purposes, in areas where such redevelopment "cannot be accomplished by private enterprise alone without public participation and assistance," according to NY CLS Gen Mun § 970-b (2012).

Once private sector investment has been made, the value of the land and consequently, the property taxes, rise. A portion of that incremental tax revenue is used to repay the TIF bonds. As such, TIF instruments are called revenue bonds.

Unlike the typical municipal bonds, (Munis) which are backed by the municipality's "full faith and credit" and known as "general obligation bonds," TIF bonds are repaid by growing the tax-base rather than by depleting the local treasury. School districts are not only awarded benefits similar to those of municipalities, but they also bring in much-needed revenue and promote new enrollments.

Under Cuomo's new legislation, taxpayers, along with stable or expanding municipal and school services, benefit from new jobs and economic stimuli without any increase in taxes. Since school districts account for the lion's share of property taxes in most areas of the state, allowing these districts to participate, and to pledge their incremental tax revenues, greatly increases the security and effectiveness of TIF bonds to investors.

Although increased property tax revenues resulting from new economic activity in previously blighted areas must be diverted during the term of the TIF bond to repay the principal and interest, the diverted revenues are revenues that would not have existed but for the infusion of TIF funds.

So, there is no actual loss of revenue even during the term of the TIF bond. After the bond matures, all of the new revenues go in their entirety to the taxing jurisdictions.

Although New York City and the four other big cities in the State do not have separate school district taxes, the reform was necessary in these areas as well because it clarified that "sound development and redevelopment of blighted areas increases public school enrollment by providing affordable housing and employment opportunities and the need for expanded public education facilities and services."

New York municipalities need all the help they can get to build their economies, broaden their tax bases, and keep residential and business taxpayers from abandoning ship.

TIF is the most widely used economic development tool in the United States, and now New York municipalities can participate in its use. Without school district participation, TIF bonds were viewed as too risky by would-be investors, but thanks to Governor Cuomo's leadership, this longstanding defect has now been corrected.

Kudos to the Governor and the Legislature for giving us a TIF law that works. It is now up to municipalities to use it.