

1929 Hopedale Dr
Troy, MI 48098-3346
(248) 879-0967

October 25, 1999

To: Mayor & City Council members of Troy
Members of the Troy Downtown Development Authority
Robert Gosselin, State Representative for District 42

At the October 18, 1999 meeting of the Troy City Council, it was suggested by council member John Stevens that I put my question in writing so as the appropriate answer could be provided. This letter is in response to that request. I will phrase my question, give you my answer and the reasons for my position. I ask that a written response be provided to my question with appropriate citations to substantiate that response.

QUESTION: What is the proper amount of tax increment revenue that is to be transmitted to the TDDA for the original TDDA Development Plan and Tax Increment Financing Plan as well as for Development Plan #2 and Tax Increment Financing Plan #2?

My reading of Act 197 of 1975 with amendments leads me to believe that the TDDA can only capture the incremental tax revenues generated by the increases in the value of Real and Personal Property attributed to the eligible properties within the Development Area only and NOT the entire Downtown Development District. If this position is correct, then the amount of bonding currently being suggested that could be used for the Civic Center Project is being grossly overstated. This could lead to defaulting of bonds if Troy issues more bonds than can be financed by the captured incremental revenues.

Most Public Acts(laws) will define terms that are used in the Act(law) so that questions concerning what was meant would be reduced or eliminated. Below are some of those definitions for Act 197 of 1975 as written in the Michigan Compiled Laws Online.

125.1651 Definitions. [M.S.A.5.3010(1)]

Sec. 1.

As used in this act:

.
.
.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the project area, including the assessed value of property for which specified local taxes are paid in lieu of property taxes as determined in subdivision (x), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

- .
 - .
 - .
 - (h) “Development area” means that area to which a development plan is applicable.
 - (i) “Development plan” means that information and those requirements for a development set forth in section 17.
 - .
 - .
 - .
 - (k) “Downtown district” means an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act.
 - .
 - .
 - (p) “Initial assessed value” means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. ...
 - .
 - .
 - (z) “Tax increment revenues” means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

You will note that there is a distinction between a “**Development area**” and the “**Downtown district**”. That distinction is a very relevant detail that cannot be ignored. You cannot substitute one for the other. They are distinct and separate. The definition for **tax increment revenues** specified property in the Development area, **NOT** the Downtown district. The definition for **initial assessed value** specified within the boundaries of the Development area, **NOT** the Downtown district. The initial assessed value definition also specified the assessed value is to be determined at the time the tax increment financing plan is approved, **Not** when the original TDDA was created. The base year for Tax Increment Financing Plan #2 would be 1998 and not 1993. The definition for **captured assessed value** specifies assessed value of the Project area, **NOT** Downtown district. Although project area is not defined, a reasonable person could infer that the development area is a more appropriate definition than downtown district.

The TDDA cannot arbitrarily change the definitions used in the law. The Michigan legislature can, but until they do, we have to abide by the definitions as presented. However, different interpretations of these definitions can exist. If these definitions have been interpreted differently by an administrative agency or the courts, please provide me with their interpretations as presented by the appropriate agency

and/or citations of the appropriate court cases. My concern as a Troy tax payer is that we are improperly determining the amount of tax capture. We also are using improper values of future tax capture in determining the amount of bonds the TDDA can issue. What happens if it is determined that my interpretation is correct? Who pay's for error? The Troy tax payers? Deplete the rainy day fund?

I could continue by documenting where in the various TDDA documents the words “**Development area**” are used. I don't think that is necessary but would do so if you need to know. The question that needs to be answered is what tax increment revenues can be captured to pay for the bonds issued by the City of Troy? Those from all the properties since the TDDA was established or only those from the properties in the development areas from the time the tax increment financing plan is adopted?

If you have any questions on what I have just written, please feel free to contact me.

Sincerely yours,

Victor Lenivov