

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

March 3, 2000

Clarence E Brantley  
Vice Chancellor for Administration Services  
Oakland Community College  
Bee Administration Center  
2480 Opdyke Rd  
Bloomfield Hills, MI 48304

Dear Mr. Brantley:

Sorry for the delay in responding to your e-mail. Things have been pretty busy for me these past few weeks. I am enclosing a copy (actually a reprint of the document file) of the letter I sent to the Troy City Council, the TDDA and state representative Robert Gosselin. In it, you will find the basis for my contention that more Tax revenues are being diverted than I believe are legally allowed.

There are many issues concerning whether the TDDA has been fulfilling all of it's legal obligations. There are other issues concerning the Development Plans and associated Tax Increment Financing plans that the TDDA has created improperly. I won't go into these issues at this time, but they do provide a background of intent in not following the legal requirements as established by Public Act 197 of 1975. After you look into the issue of what constitutes the proper amount of captured tax revenues and should you determine that the TDDA has diverted more OCC tax revenues than they should have, I would be glad to go into detail concerning these other issues as they do deal with the tax increment financing that is occurring.

You may wonder why I am concerned with these issues. I have been attending the Troy City Council meetings on a regular basis these past few years. As plans for the new Troy Civic Center progressed, I became interested in the role being played by the Troy Downtown Development Authority in it's development. It is no secret that I have been a critic of the TDDA. I have attended many of their meetings. I realized that the Troy City Council used the TDDA not for the reasons that P.A. 197 of 1975 intended, but as a source of additional funding for City projects (the TDDA captures tax revenues intended for OCC and Oakland County) and as a way to issue bonds to fund those projects without voter approval. That is one reason that I applied for and was appointed to the newly created Brownfield Redevelopment Authority. I want to ensure that this board does not exceed it's legal role. It also has the capability to divert tax increment revenues from other taxing authorities, not just the City of Troy.

As a member of TBRA, I received a background information package put together by Doug Smith, our liaison with the City of Troy. In that packet was an article provided by Varnum, Riddering, Schmidt & Howlett LLP, Attorneys at Law entitled:

Michigan's Brownfield Redevelopment Initiative:  
A Primer on How To Make The Most Of It

Fred M. Woodruff, Jr.  
Charles M. Denton  
Susan M. Wyngaarden

This article presented it's information in a question and answer format. There was one question and answer that supported my questioning the TDDA's method of determining what funds they had available to fund projects. It has been the TDDA's contention that they can use ALL TAX INCREMENT REVENUES FOR ALL PARCELS WITHIN THE ENTIRE DISTRICT SINCE IT WAS CREATED. I will repeat what the article stated and my reading of P.A. 197 of 1975 confirms what they state.

"How does the local municipality calculate the capture under Act 381?"

The local municipality calculates the tax increment revenue capture in the same manner as it would under the LDFA Act or DDA Act treating the "eligible property" described in the "brownfield plan" in the same manner as it would treat "eligible property" described in a "development plan and tax increment financing plan" under the LDFA Act or in the same manner as it would treat a "development area" described in a "development plan and tax increment financing plan" under the DDA Act."

I would also point out that the Troy Brownfield Redevelopment District is the entire City of Troy. No one suggests that as we develop our Brownfield plans that we will capture tax revenues from the entire district. However, the TDDA takes the view that it captures taxes from all parcels within it's own district and not just those in the development area as the law requires.

I have been attempting to get information concerning what constitutes eligible property under the DDA Act from the Treasury Dept. with little success to date. I have received some OAG's from state representative Robert Gosselin's office. Only one seems to even attempt to deal with this issue. Opinion No. 5087, dated December 6, 1976, states:

"In addition to the proceeds of this uniform tax upon property in the district, the authority may derive funds under a tax increment financing plan prepared, submitted and adopted in accordance with 14 through 19 of the act."

Section 16 (2) [MCL 125.1666] of the act states:

By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan or to refund or refund in advance obligations issued under this act. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both."

You will note that the law states: **SOLELY THE TAX INCREMENT REVENUES OF A DEVELOPMENT AREA IN WHICH THE PROJECT IS LOCATED OR A DEVELOPMENT AREA FROM WHICH TAX INCREMENT REVENUES MAY BE USED FOR THIS PROJECT.**

My letter dated Oct.25, 1999 addresses this issue. I finally received a response to my letter. What I received was a copy of the letter that John Martin,III, the city attorney for Troy, sent to the TDDA dated January 19, 2000. His response was:

“After reviewing this matter with bond counsel, it is our opinion that the proper amount of tax increment revenue that is to be transmitted to the TDDA for the original TDDA Development Plan and the TIF Plan and for the TDDA Plan No. 2 and the TIF plan No. 2 is the amount in one year by which the current assessed value of all real and personal property within the Downtown Development District exceeds the sum of \$429,278,530, or the initial assessed value of the TDDA District based upon the 1993 state equalized valuations on real and personal property on all non-exempt parcels within the TDDA District.”

No other supporting statements or documentation citations. Just that it is their opinion that collecting from all parcels within the District and not just those in the development areas.

I believe they are depending on another statement in OAG 5087. The next two paragraphs after that portion of a paragraph I stated earlier reads:

“If the plan is approved, a “tax increment” is transmitted annually to the downtown development authority, which may expend it “only in accordance with the tax increment financing plan.”

The tax increment consists of a mathematically calculated amount equivalent to the total millages levied by all taxing units that valuation of property in the district which exceeds the valuation of the district’s taxable property at the time of its establishment. In other words, the tax increment consists of the total millage levied upon property values in the district added since its establishment.”

This last statement conflicts with the law or was this statement given as a general reference. This is an issue which I hope can be resolved with the aid of state representative Gosselin’s staff and the AG’s office. If you agree with my interpretation, you would be in a better position to have the Attorney General resolve this potential conflict with issuance of another opinion (unless there already has been one made that I am not aware of).

This is a lengthy letter but this is not a simple matter. I would be glad to discuss this issue with you in person or over the phone after you have had the opportunity to look into this matter.

Sincerely yours,

Victor Lenivov

