

Summary of Local Metro Law on Tax Increment Financing

December 7, 2018

Bob Mendes, At-Large Council Member

Overview

- State Enabling legislation
- How to implement locally:
 - MDHA proposes an Economic Redevelopment Plan.
 - Must be approved by Metro Council also.
- Example: Rutledge Hill Redevelopment Plan
- Discussion of 2016 TIF Reform

Example: Rutledge Hill Redevelopment Plan

- Passed by Metro Council in 1980
- Plan completely re-written and re-enacted by Council in 1986
- Later amended in:
 - 1987
 - 1991
 - 1997
 - 1997
 - 2005
 - 2013
 - 2014

Example: Rutledge Hill Redevelopment Plan

- Current boundaries...



Example: Rutledge Hill Redevelopment Plan

- What has changed in the amendments over the years?
 - Blight?
 - Housing?
 - Length of plan?
 - Amount of TIF allowed?
 - How much of tax increment used for TIF loans?
 - How to use tax increment funds?
 - How to use proceeds from sales of land
 - Reporting requirements?
 - Affordability?

Rutledge Hill – Blight

- MDHA & the Metro Council have determined:
 - 1980: “...Rutledge Hill...is a slum and blighted area...”
 - 1986: “...Rutledge Hill...is a blighted area...”
 - 1987, 1991, 1997, 1997: “...the finding and determinations...are hereby reaffirmed and redetermined...”
 - 2005: “...Rutledge Hill...is a blighted area...”
 - 2013, 2014: no finding on blight, no reaffirmation of findings

Rutledge Hill – Housing

- The plan has addressed housing, but not affordable housing.
 - 1980: Original plan found that approx. 67% of housing in the area was “substandard” and the goal was to provide better housing in order to remove the “slum” conditions.
 - 1986: Original plan was completely re-written. New goal was mixed use including residential.
 - 1987, 1991, 1997, 1997, 2005, 2013, 2014:
 - Some changes in how housing is described in subsequent amendments.
 - However, focus on mixed use residential has remained throughout.
 - There is no reference to affordable housing.

Rutledge Hill – Length of Plan

- The Rutledge Hill Plan expiration date has been extended over the years:
 - 1980: Original plan to last until 2000
 - 1986: Plan extended to 2010
 - 1987, 1991: No change
 - 1997, 1997: Plan extended to 2025
 - 2005: Plan extended to 2040
 - 2013, 2014: No change

Rutledge Hill – Amount of TIF Allowed

- The amount of TIF allowed under the Rutledge Hill Plan has increased over the years:
 - 1980: Original plan allowed TIF in concept, but did not authorize any amount and did not create any mechanism for TIF to be awarded. There were no TIF loans under the original plan.
 - 1986: Authorized \$2.5 million in total TIF loans
 - 1987, 1991: No change
 - 1997, 1997: Increased authorization to \$15.5 million
 - 2005: Increased authorization to \$35.5 million
 - 2013: No change
 - 2014: Increased authorization to \$60 million

Rutledge Hill – How much of increment to be used to support TIF loans

- 1980: Original plan did not create any mechanism for TIF to be awarded.
- 1986 & onward to 2014:
 - The plan allows for all new taxes from a property being developed to be used to pay TIF loans (and MDHA administrative fees).
- 2016 TIF reform:
 - For new loans after early 2016, the “Debt Service Taxes” are excluded and remain with Metro. The rest of new taxes from a property being developed still used to pay TIF loans (and MDHA administrative fees).

Rutledge Hill – How to use tax increment funds

- 1980: No TIF loans under the original plan.
- 1986, 1987, 1991, 1997, 2005, 2013, 2014 – Plan says:
 - "Activities or improvements eligible for tax increment funding shall include planning, engineering and legal expenses; administrative costs, relocation, site clearance; streets; pedestrianways (sic), utilities, and public open spaces constructed in the Project Area or necessary to serve the Project Area; and land acquisition."
- 2005, 2013:
 - This language is deleted with no replacement (*probably inadvertently*).

Rutledge Hill – How to use tax increment funds

- 2014: Old language added back in with significant changes. It now reads:
 - "Activities or improvements eligible for tax increment funding shall include planning, engineering and legal expenses; administrative costs, relocation, site clearance; streets; pedestrian-ways, utilities, ~~and~~ public open spaces, parking garages, and other uses as allowed under State law, or other structures or public improvements constructed in the Project Area or necessary for carrying out the Rutledge Hill Redevelopment Plan, or other adopted and approved redevelopment plans to serve the Project Area; and land acquisition."

Rutledge Hill – How to use proceeds from sales of land

- 1980: Original plan said all proceeds from MDHA land sales had to be reinvested by MDHA in the district area or returned to Metro General Fund.
- 1986, 1987, 1991, 1997, 2005, 2013, 2014
 - Deleted language from 1980.
 - Now silent about uses of MDHA land sales proceeds.
 - Although silent, state law most likely requires MDHA to use proceeds from land sales in the same redevelopment district.
- 2016 TIF reform:
 - Prohibits using sale proceeds from one district in another district absent Council approval

Rutledge Hill – TIF Reporting Requirements

- 1980: None
- 1986: None
- 1987: None
- 1991: None
- 1997: None
- 2005: None
- 2013: None
- 2014: None
- 2016 TIF reform: Annual TIF reporting requirements added

Rutledge Hill – Affordability Requirements

- 1980: None
- 1986: None
- 1987: None
- 1991: None
- 1997: None
- 2005: None
- 2013: None
- 2014: None

Summary of 2016 TIF Reform Bill

- Return to original intent:
 - Tax increment to be returned to Metro General Fund after TIF loan is paid.
 - MDHA cannot serially re-finance property to keep tax increment at MDHA.
 - Require land sales proceeds to be used in the district or returned to Metro.
 - Can't use tax increment from one district in a different district.
- New features:
 - Substantial annual reporting.
 - Exclude “debt services taxes” for future TIF loans