

Quick Takes

August 2008

Quick Takes: Bridging The Money Gap: Tap TADs To Pay Project Costs

These are times when money is tight. Many a project won't get done unless something can be done to bridge the gap between "funds available" and "funds needed" for the project. So, what's new about that? Well, now you can tap "**TADs**" (tax allocation districts) for funds to bridge the money gap.

What's that you say? Your project isn't in a blighted area? Well, good news. The General Assembly has responded to the underutilization of the TAD tool. Now, "redevelopment" in many cases encompasses "economic development."

In other words, tax increment financing isn't just about "blight" anymore! That's good news for mixed-use developments, as well as traditional industrial or office projects.

In Georgia, tax increment financing means tax allocation bonds ("**TAD bonds**"). TADs are based on the Redevelopment Powers Law, which originally was preoccupied with addressing "blight." However, this focus meant that this law wasn't used very much. By 2001, only a few communities had obtained passage of the local act of the General Assembly and voter referendum that are prerequisites to the exercise of redevelopment powers.

The General Assembly recognized the problem and changed our Redevelopment Powers Law. These changes at the same time are both hugely significant and not well known. But they were deliberately intended to "expand the meaning of redevelopment", and "to change the characteristics of areas eligible for designation as redevelopment areas," according to 2001's HB 409 (additional changes were made in 2006).

Result- in many cases, new tax allocation districts, or TADs, can provide cash to bridge that funding gap. This funding can provide public infrastructure, and, subject to proper documentation and structuring, can even pay for line items on a private developer's

development pro forma if they are eligible redevelopment costs. This funding is not limited to blighted areas.

But bonds are just a way to borrow money, and the bond investor insists on knowing that the bonds will get paid. Satisfying the bond investor can be difficult, since TAD bonds are basically repaid out of the “**positive tax increment**” (increase in the property tax digest from the new growth that follows the redevelopment).

New financing techniques have helped make TAD bonds more marketable. A recent TAD financing was able to use certain sales and use taxes from the tax allocation district as an additional source for repayment. Imagine the difference that this additional revenue source would make in a financing for a large mixed-use development, for example!

Another large TAD financing was backed by an indirect millage pledge by a city. When guarantees from the private sector are instead used to secure tax-exempt TAD bonds, compliance with the complex federal income tax rules applicable to tax-exempt bonds can be a challenge. An example of success in doing so is the TAD financing that utilized a letter of credit provided by a developer, but restricted draws so as to preserve the tax-exempt status of the TAD bonds. Of course, TAD bonds can be, and often are, issued as “taxable” bonds; e.g., when used to finance a “private activity”.

TAD bonds can be a powerful tool for redevelopment and economic development. On the other hand, if a city or county wants to explore using redevelopment powers without committing itself to using TADs, it can. For the purpose of adopting and implementing redevelopment plans, a city or county that has obtained these redevelopment powers can immediately, with or without creating a TAD-

- Enter into *contracts with a term of up to 30 years with private parties* such as developers.
- Acquire property for redevelopment purposes, and *dispose of property* at a *public or private sale*.
- *Borrow money from financial institutions*, for a term of up to 25 years, to pay redevelopment costs, without such contractual obligations requiring a referendum.

Want to know how to get started? Regardless of whether it’s a community or a private sector developer asking that question, the answer is: “Form a ‘public/private partnership’.” That’s the best way to succeed with redevelopment.

In that “partnership”, the public sector invests certain revenues from a TAD within the tax allocation district in order to leverage even greater investment by the private sector within the district, with attendant job creation, growth in sales and use tax revenues,

and other public benefits.

In fact, the Redevelopment Powers Law recognizes that it is “essential” for communities to “form a more effective partnership with private enterprise.”

Here are just a few of the reasons for a community to be concerned about redevelopment:

- The traditional focus- the need to relieve conditions in blighted areas.
- To achieve success in economic development.
 - To create sites that are competitive for investment and job creation projects out of an area that otherwise would be a “non-starter” in terms of site selection.
 - To attract a commercial, industrial or office prospect, by being able to offer these benefits:
 - Already-installed transportation and other infrastructure. Grant money that might otherwise have to be invested in public infrastructure might instead be made available (in compliance with applicable law) for incentives on the project level.
 - Proximity to a work force and amenities.
 - Payment by the community (in accordance with applicable law) of capital expenditures in the prospect’s capital budget for the project that qualify as redevelopment costs.

Redevelopment has its own special challenges, however. Redevelopment costs can be higher than the costs of a “green field” project. Often, older structures have to be demolished in the course of carrying out a redevelopment plan. Environmental issues can impede redevelopment or add to costs. Redevelopment is more intensive than new development in terms of government involvement, policies and procedures.

If a city wants to use a county’s tax increment to pay redevelopment costs, it must obtain the county’s consent. (The tax increment used for a county TAD is based on “all county *ad valorem* property taxes levied for county governmental purposes.”) The Redevelopment Powers Law provides for a board of education (or other board setting educational millage) to also have the right to consent to include the educational millage increment as a source for the payment of redevelopment costs. However, a recent Georgia Supreme Court decision has invalidated the option to include educational millage. We have the opportunity to vote to reverse that decision (by amending the Constitution) in a referendum in November.

Presentations to communities on the benefits of TADs usually stress these points:

- Local government revenues from the existing tax base will continue unaffected by the TAD. In other words, the general fund of the city or county is not at risk because redevelopment costs are only paid out of the “special fund” related to the positive tax increments (but see caveat below)
- Upon termination of the TAD, revenues from the tax increment associated with the new growth will be added to these existing revenues, creating a “windfall” for the local governments
- Meanwhile, other, non-property tax revenues to the local governments (SPLOST, EPLOST, business license fees, etc) will be enhanced by the new growth
- The local governments get the increased and enhanced revenues without having to raise taxes
- TAD bonds do not count against the G.O. bond limits for the city or county
- The city or county’s credit rating would not be affected by TAD bond financing, if it is used with discretion
- Property values will increase within the TAD, and also nearby, due to the “halo” effect
- Employment opportunities are created

Of course, communities considering TADs should verify that these points are valid in their particular case. Also, there is this **caveat** - A community should realize that, in addition to the district’s positive tax increment from property taxes, a redevelopment plan can provide for the use of *general funds*, “but only if those general funds are derived from a designated tax allocation district and used for payment or security for payment of tax allocation bonds issued or incurred under [the Redevelopment Powers Law] for redevelopment of that district and only to the extent that positive tax increments or lease or other contract payments in that district’s special fund are insufficient at any time to pay principal and interest due on such bonds.” O.C.G.A. Sec. 36-44-20(a). *See* O.C.G.A. Sec. 36-44-9(f). The city or county can protect its general fund simply by limiting the sources for payment of redevelopment costs (including debt service on TAD bonds) to the positive tax increment from the TAD.

Use of a carefully balanced redevelopment plan can result in a “win/win” result for both the community and its private sector “partner.”

Of course, TADs are not the only solution to the problem of bridging the money gap. In

fact when property taxes are “monetized”, TADs are only in the middle of the spectrum of choices. This is because only the “positive tax increment” of the property taxes of the consenting jurisdictions is monetized.

At one extreme, potentially all of the property taxes can be monetized when PILOT bonds (repayable out of payments in lieu of taxes) are used.

At the other extreme, when special tax districts, Community Improvement Districts (“CIDs”), or, assuming approval in the November referendum, Infrastructure Development Districts (“IDDs”) are used, only the additional tax or assessment is used. There’s more to come on these other financing techniques in the issues of *Quick Takes*, and new White Papers, that follow.

If you have any questions or comments on these new ways to finance redevelopment and economic development, please do not hesitate to let me know.

Meanwhile, for more information-

GO TO <http://danmcræe.info/whitepapers.asp>

FOR

White Paper: July 2008- “New TADs That Can Finance Economic Development.”

White Paper: “Bridging the Money Gap- Creative Financing for Mixed Use Real Estate Presentation”

March 2008 - "How to Use 'PILOT Bonds' to Monetize Property Tax Abatement"

AND GO TO <http://danmcræe.info/quicktakes.asp>

FOR

“*Quick Takes*”: “TADs – What to Do After the Beltline Case”

The “Current Bond Rates” page at danmcræe.info is updated weekly. This week’s version is what you see below.

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General note: This issue of *Quick Takes* is a quick-reference guide for economic developers, community developers, participants in the real estate and financial industries, company executives and managers, and their advisors. The information in this issue is general in nature. Various points that could be important in a particular case have been condensed or omitted in the interest of readability. Specific professional advice should be obtained before this information is applied to any particular case. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

CURRENT BOND RATES	
EFFECTIVE AUGUST 1, 2008	
	Interest Rates:
tax-exempt-	floating: 2.41% fixed: 3.64%
taxable-	floating: 2.61% fixed: 4.86%
General notes:	
1. Rates are posted weekly. These rates are for the effective date indicated above, or as otherwise indicated. For intra-week rates, <u>Contact Dan.</u>	
2. These are interest rates on revenue bonds that are variable rate demand bonds; i.e., floating. These can be synthetically fixed via interest rate swaps, as noted below.	
3. Tax-exempt rates are for industrial development revenue bonds (“IDB’s”) that are subject to the AMT and are 7 day general market quotes.	
4. Taxable rates are for taxable IDB’s or for taxable “corporate bonds”.	
5. Fixed rates are for 10 year terms via swaps.	
6. All rates are market extracted and approximations, and are not guaranteed.	
7. These rates do not reflect all-in costs; e.g., annual letter of credit fees are not included.	

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