
Memo: Questions for SFC Regarding the TIF Projections

Date: February 5, 2007

From: Councilman Dennis Robertson, *Real Estate Committee Chairman*
Council President Chuck Lesnick, *Real Estate Committee Co-Chair*

To: Struever Fidelco Cappelli LLC

The following questions from the City of Yonkers City Council's Real Estate Committee are regarding the proposed Tax Increment Financing ("TIF") Survey Area and the Phase 1 TIF Bond Projections submitted by MuniCap, Inc. on behalf of Struever Fidelco Cappelli LLC ("SFC").

SFC's responses follow each question.

1. The TIF District as drawn is significantly larger than the SFC proposed development area to include almost all of downtown Yonkers, yet SFC's bond projections exclude revenue from this area entirely. What is the projected future tax revenue from that other area and why is it being included in the TIF District? If this extra tax revenue is included in the projections, what % of the TIF revenue do the Developers need to cover the debt service?

1.1 *SFC RESPONSE:* Draft TIF boundaries have been drawn in such a way so as to mirror the phase I redevelopment proposed by SFC. We have not included revenues outside the new development to date since there is less certainty in these revenues and we want to make sure the bonds work with revenues in from our phase I projects only. The revenues provided to the city are conservative in that they do not include these extra tax revenues.

2. The TIF Projections assume an increase of 4% in property taxes every year for 30 years in Yonkers and in Westchester. What if Yonkers (or Westchester) does not raise property taxes at that rate?

2.1 *SFC RESPONSE:* We have used a rate that is less than the Yonkers historical rate in tax increases. The projected taxes are conservative based on historical experience. We can be confident that the costs of government will go up in future years. If this increase is less than four percent per year, it is hard to imagine it will be much less. In any case, the bonds do not require an increase of four percent per year for there to be sufficient tax revenues to repay the bonds. Future excess

revenues to the city and county will be less if real property taxes rates are increased by less than four percent per year; however, this will be an indication that the costs of governments services are going up by less as well.

3. What if unexpected infrastructure or traffic mitigation expenses arise, who will pay and how for the amount over the projected \$160 million?

3.1 *SFC RESPONSE:* As stated in section 1.7 of the MDDA, “It is currently contemplated that the cost of the Infrastructure required for the Proposed Projects, will be funded with: (i) Public Funding in the form of federal, state, and other grants and/or subsidies, without direct cost (other than in connection with TIF programs) to the Municipal Entities or the respective Project Entities.

4. Why don’t the SFC TIF projections include the Property Tax Revenue from the Baseball Stadium?

4.1 *SFC RESPONSE:* The baseball stadium financing and ownership structure has conceptually envisioned a non-for-profit entity holding title, therefore to be conservative in our projections, we have excluded any real estate increment from the ball park.

5. The SFC TIF projections assume a 5% vacancy rate for the residential, retail, and commercial space. They also estimate that apartments will average \$2,422 in monthly rent. Are those vacancy rates reasonable?

5.1 *SFC RESPONSE:* A 5% vacancy rate for residential, retail, and commercial development is a typical assumption utilized for financial models beginning in the 1st stabilized year. (To be verified by the City’s consultants)

6. Is \$22,500 for the construction of each parking space a reasonable estimate? How did SFC come up with that number?

6.1 *SFC RESPONSE:* As you are aware, Cappelli and or its affiliates have developed and built more structured parking facilities in Westchester County than any other developer. Our most recent structured parking development, City Center garage in White Plains, followed this assumption.

7. The SFC numbers projects a surplus of about \$80 million over the amount needed for the debt service. What happens to this surplus money and must it be spent on the TIF district?

7.1 *SFC RESPONSE:* All surplus revenues will go directly to the appropriate taxing jurisdictions. Pursuant to Section 970-p(a)(iii) of the Municipal Redevelopment Law, whenever the tax increment collected by the City exceeds the amount

necessary to service the debt, the excess amount of taxes “shall be paid into the funds of the respective municipalities as taxes on all other real property are paid.” There is no restriction on the use of the excess taxes, which can be used for the same purposes and in the same manner as any other real property taxes collected by the City.

8. Under what circumstances will an existing property owner’s property taxes increase if the TIF district is established?

8.1 *SFC RESPONSE:* An existing property owner’s taxes will increase only for the same reasons and under the same circumstances that taxes would increase if the property was not in a Municipal Redevelopment Project area (a “TIF district”), i.e., if the property owner improves the property and increases its assessed value. The establishment of a TIF district does not affect the assessed values of existing properties in the district.

9. Does the TIF district increase the threat that eminent domain will be used against properties that do not make improvements that would bring their properties up to the “new and improved” standards set by the new development?

9.1 *SFC RESPONSE:* No. The establishment of a TIF district does not increase the threat that any property would be condemned. The exercise of eminent domain is always solely within the discretion of the City Council. SFC has informed the City Council that it will not request that the City Council exercise eminent domain unless an owner of property within the SFC phase I project area is recalcitrant or where public improvements will be required.

10. Are there ways to structure the TIF to help address the issues that affect other property owners in the TIF district? How, if at all, have TIF plans in other cities addressed these issues?

10.1 *SFC RESPONSE:* The Redevelopment Plan adopted by the City would be a plan for the entire Municipal Redevelopment Project area, and not just for the SFC phase I project. The tax increment collected from the Municipal Redevelopment Project area can be utilized to issue tax increment bonds the proceeds of which can be used for any public improvements or services “integral to” the final Redevelopment Plan approved by the City Council, which will be improvements and services which benefit existing property owners as well as SFC (See Section 970-o(h)(iv) of the Municipal Redevelopment Law.)

11. Does creation of a TIF district require that the property within the district be designated as “blighted”? Within the proposed TIF district what, if any, portions are presently legally designated as “blighted”? What are the legal ramifications for property owners in a district that is designated as blighted? Does the blight designation increase their risk of eminent domain being used to take their property?

- 11.1 *SFC RESPONSE:* The term “blighted area” is defined in Section 970-c(a) of the Municipal Redevelopment Law as follows:

“Blighted area means an area within a municipality in which one or more of the following conditions exist: (i) a predominance of buildings and structures which are deteriorated or unfit or unsafe for use and occupancy; or (ii) a predominance of economically unproductive lands, buildings or structures, the redevelopment of which is needed to prevent further deterioration which would jeopardize the economic well being of the people” (emphasis added).

A Municipal Redevelopment Project area must be an area which meets these criteria. However, the project area may also include properties “which are not detrimental or inimical to the public health, safety or welfare, but whose inclusion is found necessary by the municipality for the effective redevelopment of the area of which they are a part” (Section 970-c(g) of the Municipal Redevelopment Law).

Almost all of the properties within the proposed Municipal Redevelopment Project area are already within the Getty Square Urban Renewal Plan area and the Riverview Urban Renewal Plan area, and have therefore already been determined by the City to be in a blighted area within the meaning of the State Urban Renewal Law. The criteria for designation as blighted under that law and under the Municipal Redevelopment Law are essentially the same, so placing those properties within a Municipal Redevelopment Project area is consistent with prior determinations by the City, and does not have any materially different ramifications to the owners of those properties.

The City already has the power to condemn under the Getty Square Urban Renewal Plan and Riverview Urban Renewal Plan. The few properties that are not currently in those areas but are proposed to be within the Municipal Redevelopment Project area would be subject to condemnation for a proper public purpose. However, the establishment of a TIF district does not increase the threat that any property would be condemned. The exercise of eminent domain is always solely within the discretion of the City Council. SFC has informed the City Council that it will not request that the City Council exercise eminent domain unless an owner of property within the SFC project area or on which new public improvements and/or infrastructure will be constructed is recalcitrant.

12. Does the power to “acquire property” using TIF revenues refer only to the acquisition of property through eminent domain?

- 12.1. *SFC RESPONSE:* No. Upon the adoption of the Redevelopment plan, the City may “purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise

or otherwise, any real or personal property, any interest in property, and any improvements on it, or acquire real property by eminent domain” (Section 970-i(a) of the Municipal Redevelopment Law).

13. Who will control and/or administrate the proposed TIF plan? What are their powers? What local government agency in Yonkers would be assigned the administrative powers that come with the creation of a TIF such as: 1) acquire property; 2) relocate displaced individuals; 3) demolish or move buildings; 3) prepare a site for redevelopment?

13.1 *SFC RESPONSE:* Approval of the Redevelopment Plan and any amendments to the Plan is solely within the jurisdiction of the City Council. Under the Municipal Redevelopment Law, the powers to acquire property, demolish buildings, prepare sites for redevelopment, and sell property are all granted to the “municipality.” Presumably, those powers would be exercised by the City in the same manner they are exercised in all other circumstances, subject, however, to the provisions of the approved Redevelopment Plan.

The Redevelopment Plan approved by the City Council must provide a plan for relocation of persons displaced from housing in the project area. Pursuant to Section 970-j of the Municipal Redevelopment Law, the City Council prepares the relocation plan, but may presumably delegate administration of the relocation plan to any City agency or department it deems appropriate.