PTI: Pardon The Interruption? No, Property Tax Incentives!
Discover the brass tacks of Chicago property related incentives

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Tax and Financial incentives offer reduced costs and higher returns for many companies making extraordinary investments. The counter to this “free money” is the bureaucratic process that must be satisfied before, during, and after incentives negotiation. Political leadership often dictates the burden of the process. Some of the most rigorous bureaucratic processes reside in Chicago and Cook County, specifically with regards to property tax incentives. Of course, for those companies willing to spend the time and energy to correctly navigate the rules, regulations and red tape, the payoff can be substantial.

The City of Chicago and Cook County offer potentially lucrative property tax incentives to encourage economic development in certain districts of their respective boundaries. Cook County offers an incentive that changes an eligible commercial or industrial property’s class, reducing the assessment ratios, and substantially lowering property taxes amongst all taxing bodies. These programs are known as the Class 6 and Class 7 incentives, based on the Cook County Assessor’s Office property incentive designations. Additionally, the City of Chicago has identified over 160 districts that it deems in need of revitalization, and offers cash offsets and training assistance to companies improving the real property within those Tax Increment Financing District boundaries. This paper will explore the rules that dictate each of these programs’ project eligibility, negotiation timeline and approval process, administrative rules, and reporting requirements necessary to capitalize on these valuable incentives.

Cook County Class 6 and Class 7 Incentives
Typically, Illinois counties assess property at 33% of the fair market value. However, Cook County has 10 classes of property, with varying assessment ratios. In Cook County, commercial and industrial properties are designated as Class 5A and Class 5B, respectively, and are assessed at 25% of the fair market value. (The State of Illinois also determines an equalization factor for each jurisdiction for use in the property tax formula that theoretically evens out the tax burden across the state.) To incentivize companies to make investment in abandoned or obsolete properties, the County offers these reduced assessment ratio classes, Class 6b and Class 7, to eligible projects. The incentives
assessment ratios are 10% of fair market value for years 1-10, 15% of fair market value for Year 11, and 20% of fair market value for year 12.

Class 6b encompasses industrial real estate projects while Class 7 covers commercial projects.\(^1\) Class 6 eligibility differs significantly from Class 7 requirements, indicating a policy objective of Cook County to entice investment of industrial projects within the County’s borders. Often industrial projects are seen as “better” by economic development agencies, as blue collar jobs are highly valued, even against commercial office jobs. Therefore, the Class 6b eligibility and application requirements are substantially lower, and therefore easier to obtain than the Class 7b. Additionally, the Class 7b application process is lengthier and requires additional departments’ involvement.

**Class 6b Requirements and Application Process**

To be eligible for a Class 6b incentive designation from Cook County, projects must be a new construction, re-occupancy of an abandoned property or substantial rehabilitation of an industrial facility.\(^2\) The applicant must also obtain a resolution from the municipality in which the property sits, supporting the application and the awarding of the County’s property class incentive. The application must be filed prior to construction, but not more than one year before construction commencement, along with a $500 application fee.

Cook County demands certain criteria for the resolution. First, the resolution from the municipality or Cook County must “expressly stat[e] that [the governing body] has determined that the incentive provided by the Class 6b is necessary for development to occur on that specific real estate” and that the governing body supports the 6b application.”\(^3\) Then, a copy of the resolution will be forwarded to the Secretary of the County Board for distribution to commissioners from affected districts. Properties seeking eligibility under the “Reoccupancy of Abandoned Property” category must have a resolution which includes a finding of abandonment for at least 24 months. Applicants can request a finding of abandonment via “special circumstances” from the resolving jurisdiction (meaning the property was abandoned less than 24 months ago), however the Cook County Board of Commissioners must also approve finding. Projects may submit an application prior to obtaining a resolution from the relevant jurisdiction, the Applicant must submit a letter from the municipality stating that a resolution has been requested. If a “special circumstance” finding is also requested, a letter confirming that request must also be filed.

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\(^1\) Class 6b and Class 7 requirements are codified in Cook County Municipal Code § 74-63(7) and § 74-63(9-10), respectively.

\(^2\) The reduced assessment can include the structures and the land, in its entirety when the project is new construction or re-occupancy of abandoned property. Substantial rehabilitation projects only reduce the assessments on the incremental market value attributable to rehabilitation. Cook County Code § 74-63(7).

\(^3\) Cook County Code § 74-63(7)(a).

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Upon receipt of a full Class 6b application, the Cook County Assessor’s Office reviews the application. The review of the application is completed solely by the Cook County Assessor’s Office, who has approval authority. If a project is approved for a Class 6b designation, then the Applicant must submit an Incentives Appeal Form and $100 fee upon completion of construction or re-occupancy to actual change the property’s classification. This final step is crucial to perfect the incentive – approval of an application does not automatically change the property’s classification. Filing of the Incentives Appeal Form upon completion of the project is the actual trigger to reclassify the property for the lower assessment ratio.

As previously discussed the Class 6b incentives lowers the assessment ratio to 10% of fair market value for the first ten years, to 15% for the eleventh year, and 20% for the twelfth. However, Class 6b properties may request a renewal after the tenth year, effectively restarting the designation for another ten years.

Class 7b Requirements and Application Process
The Cook County Class 7 incentivizes commercial properties, and, in contrast to the Class 6b program, requires satisfaction of a heightened eligibility criteria, and lengthier bureaucratic and political approval processes. The Assessor’s Office subdivided Class 7 into A and B subclasses – Subclass A projects are those with less than $2 million in investment, while subclass B encompasses projects with investments great than $2 million. Class 7a projects must meet the same basic requirements as 7b. The focus of this discussion will be on the larger Class 7b incentives, which provide more value for interested companies, and require a subsequently more burdensome administrative process.

Like the Class 6b, Class 7b projects must be new construction, re-occupancy of an abandoned property or substantial rehabilitation. Eligible Class 7b projects must satisfy the following factors:  

1) Designation of Area – The property must reside in an area designated within past 10 years as “in need of commercial development” via a resolution from municipality or County;
2) Real Estate Tax Analysis – Demonstration that the property’s real estate taxes have decreased or stagnated during the past six years;
3) Viability and Timeliness – Demonstration that the project is viable and will go forward if granted the incentive classification and will result in the economic enhancement to the area;
4) Assistance and Necessity – Establishment of a link between the incentive and the viability and feasibility of the development by demonstrating that without the incentive, the project would not proceed; and
5) Increased Tax Revenue and Employment – Demonstration of an increase in projected property tax revenue and employment in the area that is being incentivized. This demonstration must show

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4 Cook County Code § 74-65.
comparisons of projects property tax revenue with and without the development and with and without the incentive.

Like the Class 6b incentive, the Class 7b program requires the governing jurisdiction to pass a resolution in support of the project. The resolution must include a finding explicitly stating satisfaction of all five factors and articulate support of application from the municipality or relevant jurisdiction. If the project is applying under re-occupancy of abandoned property via special circumstances, the resolution must articulate support of that finding as well.

The Cook County Assessor’s office also required the submission of supplemental documents, including:

- Development Plan (site plans, description of facilities and cost estimates, etc.),
- Pro Forma Financial Statements demonstrating economic viability,
- Documentation of sources of funding,
- Disclosure of Interested Parties, and
- Development Schedule

Unlike the Class 6b program, the Assessor’s Office is not the only determinate of a Class 7b Application. Upon submission of an application, Assessor will forward the application to the Cook County Economic Development Advisory Committee (EDAC). The EDAC reviews the application and state its findings to the Assessor within 30 days. The Assessor’s Office shall make their own review and decision within 30 days of the receipt of the EDAC’s findings.

Like the Class 6b, projects that receive approval for the Class 7b designation must file an Incentives Appeal Form upon the completion of construction or substantial rehabilitation in order to trigger the incentive. Furthermore the incentive assessment ratios are the same for both Classes— 10% of fair market value for years 1-10, 15% for Year 11, and 20% for Year 20. Unlike the Class 6b incentive, the Class 7b program cannot be renewed.

It should come as no surprise that Cook County awards more Class 6b incentives than Class 7b. Many properties are potentially Class 6b eligible, and the approval process is less rigorous and lengthy. However, both programs allow companies investing in areas and building in need of economic development to offset the investment costs by substantially reduced property tax bills for 12+ years.

**Reporting Requirements**

The Assessor’s Office requires both 6b and 7b projects to file an Incentives Appeal form upon the completion of the construction and occupancy of the property to change the property’s classification. Then, the applicant will also need to file a triennial affidavit during the relevant assessment years for the duration of the incentive.
City of Chicago Tax Increment Financing

While Cook County offers reduced property tax assessments on eligible new developments, the City of Chicago offers public money to fund a portion of private improvements to encourage economic development in depressed areas. Authorized by the State of Illinois, the City offers cash advances or reimbursements for private development among its 165 Tax Increment Financing (“TIF”) districts located throughout the City. Ideally, the incentive is self-funded in the long-term. TIF funds can be used to make improvements to areas that are in need of development. Without some form of assistance, an area that has been declining in value and in need of rehabilitation/improvement will not improve. TIF can be a tool to “kickstart” activities in a targeted area that may have fallen into disrepair, neglect, experienced an increase in criminal activity. Typically, businesses will not contribute to an area that is in decay and most local governments cannot afford the improvements without raising taxes. In a TIF district, money for improvements are generated by the increase in property taxes from the increased property values resulting from new businesses investment, attracted to the area by the TIF.

In Chicago, the TIF is a program that allocates future increases in property taxes from a designated area to pay for improvements within that area (or within other designated TIF districts). The program lasts for 23 years after the creation of the first TIF district. The City of Chicago’s TIFs are not without controversy, due to outflow of public funds, as well as over-subscription of some Districts, especially those in the downtown area.

Application Process
The TIF negotiation process begins meeting with the City of Chicago Department of Housing and Economic Development to introduce the project. From there, the Applicant submits a formal TIF Application, outlining the project, its costs and a specific TIF assistance request. The Application includes 39 different factors which must be addressed. Some of these factors may be omitted at the discretion of the Department of Housing and Economic Development, depending upon the type of project applying. These factors include:

- An in-depth project narrative, introducing the company, the property’s history, construction information, and confirmation that project addresses goals and objectives found in the relevant TIF’s Redevelopment Plan;
- Detailed Project Timeline;
- Description of Public Benefit;
- Demonstration of Need;
- Evidence of Site Control;
- Detailed Sources and Uses of Funds;
- Development Budget;

5 65 ILCS 5/11-74. et seq.
- Budget of TIF Eligible Expenses;
- Pro Forma Income and Expense Schedules;
- TIF Performance Measures;
- Property Tax Increment Projections;
- Professional Market Studies;
- Environmental Studies and Reports;
- Resumes of Principals of Developer; and
- Developer Financial Statements.

The Applicant will also need to provide documented support by the Project Area’s Alderman, and other business leaders, such as the Chamber of Commerce.

Approval Process
Upon approval of the Application from the Department of Housing and Economic Development (“HED”), the HED and their attorneys will generate a term sheet to be negotiated by the Applicant and HED. Once the Applicant and HED have agreed to the terms, the Application and Term Sheet will be presented to the Community Development Commission at a public meeting. While not required, it is recommended that the Developer attend this public meeting. The presence of the Alderman and other business leaders in support of the project is certainly welcomed, as well. Upon the approval of the Commission, the HED will draft a Redevelopment Agreement, including the agreed upon terms. Upon approval of the Redevelopment Agreement by the Applicant and HED, the project will be presented City of Chicago City Council, who will immediately refer the project and the proposed resolution approving the Redevelopment Agreement to the Finance Committee. The Finance Committee with review, and if approved, will send their recommendation back to the City Council for a vote. If the project and the approving resolution are voted in, then the Redevelopment Agreement may be executed by the City and the Applicant.

Additional Requirements
Companies receiving TIF Funds must agree to hire Minority and Women Business Enterprises to do a portion of the construction. Currently, the City requires 25% of project costs to go to City-certified Minority Business Enterprises (MBEs), and 5% of project costs to go to City-certified Women Business Enterprises (WBEs). Care should be taken when selecting eligible MBEs and WBEs—a certified MBE or WBE is not certified for all goods or services they provide, but rather only for very specific services and goods under which they applied for this credential. Also, a federal or state certification as a minority- or women-owned business is not sufficient. The company must be certified by the City of Chicago to be eligible. Failure to meet the 25%/5% requirements may result in default under the Redevelopment Agreement and loss of the incentive.

Furthermore, projects receiving TIF funds must pay construction employees the prevailing wage for their services, as outlined by the State of Illinois Department

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6 Municipal Code of Chicago, Section 2-92-420 et seq.
of Labor. As well, City of Chicago residents must perform at least 50% of total construction-worker hours.\footnote{Municipal Code of Chicago, Section 2-92-330} Failure to employ the requisite amount of City of Chicago residence will result in a fine. Also, the City is requiring TIF Projects be eligible to receive Leadership in Energy and Environmental Design or LEED certification.

**Reporting Requirements**

Upon completion of the construction project, the Applicant company will need to file a Certificate of Completion with the City. The details and particular requirements of this Certificate will be specific to the project, and outlined in the Redevelopment Agreement, but most often include, but are not limited to, certification that the company still resides at the location during the incentives period, proof that the agreed to investment was made, annual employment headcounts, company financial records, and copies of the property tax bills.

Significant time, energy and effort is required to successful navigate the Cook County and City of Chicago property tax incentives. Those companies willing to make the pecuniary and physical effort can reduce their relocation and construction costs while improving the economic health of the surrounding community.