




VILLAGE OF OAK PARK
LAW DEPARTMENT

MEMORANDUM

To: Honorable Mayor Anan Abu-Taleb and Board of Trustees
cc: Cara Pavlicek, Village Manager
From: Paul L. Stephanides, Village Attorney 
Date: December 6, 2013
Re: Ownership or Lease of Property Located in a Tax Increment Financing ("TIF") District

INTRODUCTION:

With the discussion of a possible new tax increment financing ("TIF") district in the Village of Oak Park ("Village"), this memorandum is intended to provide guidance regarding ownership or leasehold interest in any property within the boundaries an existing or future TIF district by an elected official pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/74.4-1 *et seq.* ("TIF Act").

DISCUSSION:

In general, an elected official cannot own or hold a leasehold interest, either directly or indirectly, in any property in a Village TIF district unless that property is the official's primary residence. The TIF Act specifically provides as follows:

(n) If any member of the corporate authority, a member of a commission established pursuant to Section 11-74.4-4(k) of this Act, or an employee or consultant of the municipality involved in the planning and preparation of a redevelopment plan, or project for a redevelopment project area or proposed redevelopment project area, as defined in Sections 11-74.4-3(i) through (k) of this Act, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates and terms and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the corporate authorities and entered upon the minute books of the corporate authorities. If an individual holds such an interest then that individual shall refrain from any further official involvement in regard to such redevelopment plan, project or area, from voting on any matter pertaining to such redevelopment plan, project or area, or communicating with other members concerning corporate authorities, commission or employees concerning any matter pertaining to said redevelopment plan, project or area. Furthermore, no such member or employee shall acquire of any interest direct, or

indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan, project or area or (b) first public notice of such plan, project or area pursuant to Section 11-74.4-6 of this Division, whichever occurs first.

65 ILCS 5/11-74.4-4(n) (emphasis added).

There are two exceptions to the foregoing:

- (a) A property interest acquired in a single parcel of property by a member of the corporate authority, which property is used exclusively as the member's primary residence; and
- (b) A month-to-month leasehold interest in a single parcel of property by a member of the corporate authority.

65 ILCS 5/11-74.4-4(n).

If an elected official owns or controls an interest, direct or indirect, in any property included in a proposed Village TIF district, he or she must disclose that interest in writing to the Village Clerk and shall also disclose the dates, terms and conditions of any disposition of any such interest. 65 ILCS 5/11-74.4(n). This disclosure must be acknowledged by the Village Board in an open meeting and entered into the minutes of the meeting. *Id.*

If an elected official currently holds an interest in any property located in a TIF district, the official must refrain from any further official involvement with regard to the redevelopment plan for the TIF or any TIF project. *Id.* The official must refrain from voting on any matter pertaining to the plan or project or communicating with another member of the Board or Village employee about the plan or project. *Id.*

Participation by the President and Trustees in the benefits of a TIF is prohibited, even if the property owned by the official, whether directly or indirectly, is not within a TIF district. Section 3.1-55-10 of the Illinois Municipal Code, 65 ILCS 5/3.1-55-10, prohibits a municipal officer from being financially interested, directly in the officer's own name, or indirectly in the name of any other person, association, trust, or corporation, in any contract, work, or business of the municipality. The law provides an exception to this rule if the official owns less than a 7½ percent share of the ownership in the applicable entity; a single contract is less than \$1,500; all contracts total less than \$25,000 in the same fiscal year; full disclosure is made; and, the interested member refrains from voting.

RECOMMENDATION:

Pursuant to the above, I recommend that no member of the corporate authorities, or an employee or consultant of the Village, acquire an ownership interest in any property or leasehold interest in any property within an existing or future Village TIF district other than a personal residence. Please let me know if there are any questions.