

## A Failing Marriage: The Detrimental Effects of TIF on Chicago Public Schools

### I. INTRODUCTION

Throughout the past few years, tax increment financing (TIF) has been a widely debated program throughout the city of Chicago. With the Great Recession in 2008 combined with the local socio-economic issues plaguing the city, which include the most recent rash of school closings, the program has generated many opinions on its effectiveness or lack thereof. In the midst of the aftermath of a historic mayoral election which a runoff was forced for the first time ever in Chicago, TIF has become firmly entrenched within the city's political dialogue. This paper takes a deep look at the program's method of allocation, what it has brought to the city, and how it has been intertwined with Chicago Public School's (CPS) struggles.

### II. WHAT ARE TIFs?

To begin an analysis on TIF and their effects on Chicago's public education system, one must first describe what TIF actually is. TIF is a tool that has been used by cities to create a fund for community development projects for the public and private sectors.<sup>1</sup> These funds are generated with property tax dollars. Once a district is classified as a TIF district by city officials, the taxed property value of the district's properties are frozen for 23 years.<sup>1</sup> Any revenue that is created above the frozen property value would go towards the city TIF funds.<sup>1</sup> The money is then used to fund large projects devoted to improving the city.<sup>1</sup>

TIF was first enacted by the Illinois legislature in 1977 due to a large reduction of state and federal economic development funds.<sup>2</sup> Initially, there was reluctance from city

officials to use TIF.<sup>2</sup> Although the law was passed in 1977, it took 7 years for the first TIF district to be created.<sup>2</sup> At the start of the Richard M. Daley mayoral administration in 1989, there were only 12 TIF districts.<sup>2</sup> That number increased to 75 TIFs by the year 2000.<sup>2</sup> Throughout its 28-year lifespan, Chicago's TIF program has netted a total of \$5.5 billion in funds.<sup>3</sup> Currently there are over 150 TIF districts in the city with \$1.7 billion currently in collected funds.<sup>3</sup>

### III. THE PROBLEM

When simply looking at the constructs of the TIF program, it should exude a sense of a promising and beneficial model to improve the city. It creates a fund to improve certain areas of the city through the efficient use of saving government dollars. It also allows for an avenue of direct reciprocation of taxpayer dollars towards communities who are actually financing the fund. However, the debate on this program lies in its method of allocation. Under Illinois law, TIF must be used for developing areas of blight and are in need of redevelopment. Despite this fact, in the most recent years, TIF funds have been allocated to other areas where blight is nowhere to be found such as the Loop and other areas downtown.

This has been very frustrating for many areas and institutions looking to depend on TIF monies, especially CPS. The reason being that public schools depend on property taxes to finance their needs and CPS alone is Chicago's largest taxing body.<sup>4</sup> Thus one need not look far to find the reasons for the current problems surrounding CPS regarding the closing of schools, lack of teacher pay, and quality of education for students. The funding that is needed to correct these problems is being extracted to stimulate areas that are relatively much more well off. Therefore, I argue that issues surrounding TIFs go

right at the heart of the current state of CPS. For anyone to understand the problems associated with CPS, one must have a firm grasp of knowledge on problems of Chicago's TIF programs, and vice versa.

#### IV. THE LAW

To understand how the shift in governmental priorities with TIFs was allowed to occur, we must first look at what the law specifically states about the necessary requirements for allocating TIF funds. As mentioned before, TIF funds must be allocated to blighted areas. The law defines blight with a criterion that must be associated with potential TIF funded areas.<sup>5</sup>

The second requirement is the "but for" test.<sup>4</sup> The funds used for a TIF district must be used for a redevelopment project.<sup>5</sup> The law defines a redevelopment project as any public and private development project in furtherance of the objectives of a redevelopment plan.<sup>5</sup> The test states that the redevelopment project's can only be implemented through TIF funds if said area would not be developed but for this redevelopment plan.<sup>5</sup>

It's safe to say that most would interpret both of these requirements as a sign that the intent for TIFs was solely to benefit areas in desperate need of development. It was implemented to improve school infrastructure, provide higher pay for teachers, and create the best possible learning environment for students. Despite all of this, both the Daley and Emanuel administrations have made concentrated efforts to shift TIF funds away from school related projects in blighted areas to higher end areas. TIF costs have grown at a staggering pace in recent years and have been surpassing the City's annual pension liability.<sup>6</sup> Since 2007, TIF has exceeded pension costs every year.<sup>6</sup> This was all money

that could have been used for Chicago's recent and past budgetary problems with CPS. The source of the problem here lies with how TIF legislation can be manipulated and interpreted in favor of corporate interests so that almost any area in the city can be classified as a TIF district. This has played an integral role in the recent rise of TIF use.

Judicial oversight is also a problem with TIF usage.<sup>7</sup> Due to high transaction costs of litigation for those who live in districts that have been affected by the misallocation of TIF funds, it is extremely rare for suits to be brought against the city and to allege that they have misused these funds.<sup>7</sup> Even when challenges are brought to court, there has been great judicial deference in favor of legislators.<sup>7</sup> An example of a TIF case in which the correct form of judicial scrutiny was exhibited is the case of *Board of Education, Pleasantdale School District No. 107 v. The Village of Burr Ridge*.<sup>7</sup> This case provided an example of how the law should be interpreted for its original intended use.<sup>7</sup> The court found that the findings from Village of Burr Ridge, which stated that their district qualified as a TIF district, were incorrect because they did not meet the requirements to be considered a blighted area.<sup>7</sup>

The Village created a TIF redevelopment plan on vacant land in one of the state's wealthiest neighborhoods. The Village believed they met the statutory criteria to be considered a blighted area by meeting four of the requirements within the statute's criteria.<sup>7</sup> The four requirements that the Village relied on were diversity of ownership, flooding, obsolete platting, and tax delinquencies.<sup>7</sup> However the Court found that their arguments for meeting these requirements were "weak" and "marginal."<sup>7</sup> The Court stated that there were only two owners on the property so it did not qualify as an area with diversity of ownership.<sup>7</sup> Furthermore, although the property was on a flood map, the

court found no evidence of previous flooding.<sup>7</sup> The court also found no evidence of tax delinquencies that hindered the development of the area. Finally, the Court also ruled that the Village failed the “but for” test and concluded that the area would have been developed even without TIF funds because records were shown to indicate that there were developers who were interested in the site even without the assistance of TIF.<sup>7</sup>

## V. MISPRIORITIZED LEADERSHIP

All of these problems have been compounded by the difficulty to get specific details on where TIF funds have been dispersed because of resistance from city officials. Since the TIF budget is wholly separate from the original budget, it has allowed both mayors and city council a large amount of power and discretion in what would be funded with TIF monies without any need for public discussion. However, recent in depth inquiries and research from both academic and journalism levels that discovered the whopping \$1.7 billion stashed in TIF funds have forced the public to take a closer look in recent years.<sup>6</sup>

The reallocation of TIF funds came at a pivotal crossroads in 2008 when the Great Recession plagued not just Chicago, but the nation as a whole. Tax funds shrunk throughout the country and public bodies were hurt drastically. At the time, Chicago was facing a \$500 million budget deficit.<sup>8</sup> The Daley administration decided to tackle the issue by implementing budget cuts across the board and even tapping into reserve funds from the leasing of the Chicago Skyway Bridge and parking meters throughout the city.<sup>8</sup> However, while spreading rhetoric that described Chicago’s financial matters in dire circumstances, Mayor Daley was also doling out public monies to private companies in the downtown area.<sup>8</sup> One of the more notable allocations was made in May of 2009

towards Willis Tower when City Council voted in favor of giving \$3.8 million to Willis Holdings Group, which has served as the building's main tenant.<sup>8</sup> Daley also distributed \$35 million to help United Airlines move into the building later that year as well.<sup>8</sup>

Before his first term in 2011, Mayor Emanuel campaigned on changing these practices by implementing TIF reform and creating an entirely new committee to oversee the funds. In spite of these ideas, Chicago has experienced many of the same actions exhibited by the Daley administration throughout the past 4 years. An in depth analysis made by CivicLab called the "TIF Illumination Project" found that in 2013 alone, \$412 million were extracted from all 151 TIF districts in property taxes.<sup>9</sup> 21 of those districts had at least 90% of its property taxes diverted to the TIF fund.<sup>9</sup> Emanuel has spent the past 4 years spending a substantial portion of those millions on corporate development deals in high-end neighborhoods.<sup>9</sup> In his 2012 budget, Emanuel defended these moves, despite the fact that they were not apportioned to blighted areas, by stating that the money was needed for "...for community projects, public improvements, and incentives to attract private investment to the area."<sup>10</sup>

Perhaps no project exemplified these actions more than in 2013 when Emanuel pushed to fund a DePaul University basketball arena and a hotel for \$125 million with TIF monies.<sup>10</sup> Many questioned Emanuel's monetary priorities for overlooking the city's struggling schools to benefit a private university that charges around \$30,000 for tuition a year and has had a historically mediocre basketball tradition.<sup>10</sup> To add insult to injury, his proposal occurred at the same time he defended his move to order the largest public school closings in American history with an argument based on budgetary savings.<sup>10</sup> With the terrible history of a lack of reciprocity in investments on sporting arenas with

public funds throughout the country, it created even more questions about the intentions behind the allocation of TIF funds.

What also needs to be addressed is how TIF funds have been dispersed unequally to specific schools. When analyzing the statistics in detail, a problem of disproportionate prioritization begins to emerge.<sup>1</sup> During Emanuel administration's first term, 28 schools received TIF funds, which totaled to \$857.81 million.<sup>1</sup> Half of those schools were a part of a citywide school program called the Modern Schools Across Chicago Plan, which focused on constructing new school buildings.<sup>1</sup> However, a 2012 study from Chicagoland Researchers and Advocates for Transformative Education (CREATE) stated that a trend began to take shape with the construction of these schools that showed that preferential treatment was shown towards schools with exclusive enrollment policies.<sup>1</sup> These schools include selective enrollment schools, charter schools, and magnet schools.<sup>1</sup> 52% of all TIF funds spent on schools were spent on exclusive enrollment schools, which included mixed component schools.<sup>1</sup> This left neighborhood schools cut short from funding, particularly Chicago Public Schools because 69% of them are located in neighborhood areas.<sup>1</sup> The 48% of TIF funds they received was a third less than what was supposed to be apportioned to them if the schools were treated equally.<sup>1</sup> CREATE went on to say in their study that "Even if mixed enrollment component schools were combined with neighborhood schools, this brings of the total amount TIF funds spent on neighborhood area attendance schools to 58%."<sup>1</sup>

Judging by the disproportionate amount of TIF funds allocated to schools, selective enrollment schools would be considered as the schools that the mayor and city council favor the most.<sup>1</sup> All of Chicago's selective enrollment schools were created under

the Daley administration in an attempt to keep middle class families in the city whom he believed would leave CPS.<sup>1</sup> Despite only making up 1% of all CPS schools, selective enrollment schools still receive 24% of all TIF Funds spent for the citywide construction projects.<sup>1</sup>

The problem with giving so much preferential treatment for selective enrollment schools is that many of the people living in the areas where selective enrollment schools are located are left out from reaping the benefits. All children throughout the city are eligible to apply to any selective enrollment schools and they are not required to accept children from the neighborhood they're located in.<sup>1</sup> They also have rigorous admissions standards and must select students from the four different socioeconomic tiers presented by CPS.<sup>1</sup> Due to all these factors, taxpayers with children within those districts are left to search for other schools instead of the ones in which they were integral in funding.

## VI. CONCLUSIONS AND SOLUTIONS

In conclusion, there are many potential strategic solutions to solve Chicago's TIF problem. Some have theorized that the program should be eliminated all at once because all it has done for the majority of two decades is provide mayors with a "slush fund" to satisfy the city's corporate entities. Similar action took place in California when Governor Jerry Brown was faced with budgetary problems associated with TIF funds.<sup>6</sup> Governor Brown faced the same problem as Chicago has with an enormous amount of property taxes going into TIF funds.<sup>6</sup> Overall, 12 percent of property taxes were going into TIF funds in California and as much as 25% in some municipalities.<sup>6</sup> After multiple failed reform efforts, Governor Brown eliminated the ability for districts to have TIF.<sup>6</sup> Although it did create short-term financial consequences due to the debt obligations



towards the former TIF districts, the decision from Governor Brown created opportunity for long-term savings.<sup>6</sup> California's Legislative Analyst Office stated that because of Governor Brown's elimination of TIF districts, property tax revenues for school districts and cities 20 years from now will be about 10 to 15% higher than they would've been.<sup>11</sup>

While this move brought some benefits for the state of California, there are still some paths to take were the main intentions of TIFs can be met through reforms so that blighted neighborhoods throughout the city can receive necessary assistance. This would be particularly beneficial because Chicago cannot afford to tack on even more short-term budgetary debt if an elimination of TIF took place. In doing so, we must first look at reforms through micro and macro perspectives.

At the micro level, TIF reforms can be made through legislation and reallocation of funds. Through legislation, new acts can be implemented at the state and local level to reaffirm the intentions of the TIF act and fill in any holes that would allow allocation of TIF funds to areas that are already thriving. To do this, Illinois should implement more stringent restrictions on how TIF funds can be allocated. An example of these restrictions can be found in New Hampshire. TIF funds in New Hampshire are restricted to public projects and the legislature narrowly defines public use as something that cannot include public benefits that come from private economic development activities except in a small amount of circumstances.<sup>4</sup> Furthermore, there should be legislation to eliminate the lack of transparency of the program, which has been going on for two straight mayoral administrations. Information on where TIF funds are going is imperative for the public to know where their tax monies are being allocated to, particularly when they are allocated

to areas outside of their neighborhoods. This would allow voters more power to hold their public officials accountable with their use of TIF funds.

At the macro level, the focus should be on the root of the problem, which is the lack of prioritization from city officials to use TIF for its intended use of revitalizing blighted neighborhoods. When looking at the source of the previous two mayor's campaign contributions, it is hard not to assume that the shift in priorities of the TIF program is due to the influence that corporate interests have had at the 5<sup>th</sup> floor of City Hall. Due to this problem, campaign finance reform is imperative to eliminate the political advantage and necessity to represent the highest bidding corporate interest instead of a politician's respective constituency.

Attempts to make reforms on the national level have been stagnant; however at the local level efforts have picked up steam. A measure was placed on the ballot in Chicago's general election this year to endorse a plan to implement public campaign financing and placing a limit on outside campaign contributions to politicians. The measure passed overwhelmingly by a 58-point margin.<sup>12</sup> This came at an important time as well, with Mayor Emmanuel launching the first ever Super PAC in Chicago municipal election history and outspending his main challenger Cook County Commissioner Jesus "Chuy" Garcia by \$16 million on his path to reelection.<sup>13</sup> By implementing these changes, an environment will be created at City Hall that will force city officials to use TIF funds in a more efficient manner and maintain its core intention of revitalizing neighborhoods that are in desperate need of it. Without these changes, schools in Chicago will continue to suffer the burden of having their main revenue source slashed, while simultaneously staying in the hole that Chicago's TIF program helped to put it in.

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