

To: City of Bloomington Common Council
From: Jane Kupersmith, Director of Economic & Sustainable Development and De de la Rosa, Asst. Director of Small Business Development

Cc: Kerry Thomson, Mayor
Gretchen Knapp, Deputy Mayor
Stephen Lucas, City Council Administrator/Attorney
Larry Allen, City Attorney
Kurt Zorn, President, Economic Development Commission

Date: June 7, 2024
Re: 2023 Economic Development Commission Abatement and Annual Activity Report

Executive Summary

Attached please find the Economic Development Commission's 2023 Summary of Abatement Activity presentation. This report analyzes each of the active tax abatements granted by the City and is based on the annual Compliance with Statement of Benefits (CF-1) filings that an abatement recipient is required to file with the City and County. These filings are due May 15, and the Common Council has 45 days from the date the filing is submitted to take any necessary action, including rescinding an abatement, which might be warranted for failure to comply with the terms of the abatement.¹

The Economic Development Commission (EDC) reviewed and approved this report on June 4th. Staff recommends a finding of compliance or substantial compliance for all projects in this report. There is no recommendation to rescind any projects currently receiving a tax abatement, but the presentation of the Report on June 12 would allow, if necessary, for such action. If council members are interested in the history of any particular tax abatement contained in the report or have any other questions, please reach out to either council staff or to ESD Director Jane Kupersmith.

Economic Development Commission (EDC)

The Bloomington Economic Development Commission has five members whose terms last four years. The first three members listed below are mayoral appointments, and the final two were appointed by the Monroe County Council and the Bloomington Common Council respectively. Membership is as follows:

- Kurt Zorn, President
- Cheryl Munson, County Council Representative, Secretary
- Isak Ntsi Asare, Bloomington Common Council Representative, Vice President
- Vanessa McClary
- Tim Henke

City of Bloomington staff who support the Commission are:

- Jane Kupersmith, Director of Economic & Sustainable Development
- De de la Rosa, Assistant Director, Small Business Development
- Larry Allen, City Attorney

In addition to the statutory responsibilities, duties, power, and authorities set out by Indiana Code 36-7-12, the EDC makes recommendations to the Bloomington Common Council regarding applications for tax abatement and other economic development incentives.

¹ See Ind. Code § 6-1.1-12.1-5.9

Tax Abatements

Tax abatements are a reduction of tax liability on real or personal property that applies to increased assessed valuation due to new investment. The kinds of investments in real and personal property that may be eligible for tax abatements are largely found in I.C. § 6-1.1-12.1-0.3, et seq., which, along with the ones typically authorized by the City, also include ones for distressed residential properties and vacant buildings.

The Common Council has adopted Tax Abatement Program General Standards, which Council amended in Resolution 21-06. These standards supplement the requirements outlined in State law and attach to those projects approved after the local standards went into effect.

Prior to awarding a tax abatement, the Common Council, upon recommendation of the Economic Development Commission (EDC), must make a determination that the site would not develop under normal market conditions and designate the area an Economic Revitalization Area (ERA) or, for certain uses, an Economic Development Target Area (EDTA). Upon determining that a site is distressed per an ERA designation, State statute and Local Standards require the Council to find that the benefits asserted by the petitioner are reasonable and probable and justify, in totality, the granting of the abatement. According to State law, those benefits are set forth in a Statement of Benefits (SB-1) and include the estimated cost of the project, number of persons employed, and payroll, along with any locally identified benefits.

For real property abatements period of abatement may run from 1 to 10 years and the amount of the abatement is generally determined by a sliding scale which runs from 100% to 0% over the period of abatement. For personal business property, the Council has discretion to grant either a ten-year abatement schedule or a twenty-year enhanced abatement schedule. All tax abatements must be accompanied by a schedule that specifies the percentage for each year of the abatement, as indicated in I.C. §§ 6-1.1-12.1-17, -18.

Based on phased-in assessed valuation rates governed by State law, the Bloomington EDC recommends a term of abatement for each project, which requires the Council's authorization. With respect to abatements on new construction and on personal property, the Council may also choose to limit the dollar amount of the deduction.

Standard of Review and Process

The Common Council reviews active abatement projects under a statutory process that focuses on the CF-1s, which compare benefits committed to by the applicant in the Statement of Benefits (SB-1) with the actual benefits delivered by the project. In reviewing the CF-1s (which are available upon request), the Common Council determines whether the projects are in "substantial compliance" with the commitments made at the time the abatement was granted. If the Council determines that a recipient of an abatement is not in "substantial compliance" and that the failure to substantially comply was not caused by factors beyond the control of the abatement recipient (such as declines in demand for the recipient's products or services), it has 45 days from the receipt of the CF-1 to mail a written notice of the finding to the abatement recipient.

The written notice must include an explanation of the Council's determination, and the date, time, and place of a hearing to be conducted by the Council to further consider the recipient's compliance. The hearing must occur within 30 days of the date the notice is mailed to the abatement recipient and could result in the termination of the deduction. The decision to terminate the tax deduction should be made only if the Council concludes that the taxpayer has not made reasonable efforts to meet its commitments and was not prevented from complying with the terms of the abatement due to factors beyond its control.

Recommendation

ESD staff recommend a finding of compliance and substantial compliance for all projects in this year's report.

