

BRONCO HIGHWAY DEVELOPMENT MANAGEMENT STUDY TAX ABATEMENT ALTERNATIVES

A. BACKGROUND

Tax abatements are sometimes used by communities to stimulate community investment and/or to mitigate the potential adverse impacts on new development on existing residents. In an abatement program designed to stimulate development, the community agrees to forgo taxes on real property improvements for a given period in order to encourage property owners to make the investment in property improvements. These programs may be used to revitalize blighted areas, or to encourage new development in previously undeveloped areas.

Mitigation programs recognize that commercial and industrial development can affect nearby property owners by affecting the value of land. Commercial and industrial property is often worth more on a per acre basis than residential property. Rezoning property from a residential to commercial or industrial classification can cause the value of that property to increase. These increases in property values will work to the advantage of property owners wishing to sell property. However, for property owners wishing to retain residences on affected properties, the same change in value can lead to an increase in assessed value and therefore in taxes. Most communities are eager to encourage commercial and industrial development, but at the same time wish to mitigate the potential impacts on residential property owners in the vicinity of new development.

B. TAX ABATEMENT APPROACHES

The following briefly describes some of the methods, which are available to allow a community to provide tax abatement for affected property owners.

1. Freeze Assessed Value

Freezing the assessed value of a property precludes increased property taxes, which might result from increased property value. With this approach, the community agrees to maintain the same value for the affected properties within a given area for a given amount of time. Therefore any increase in value resulting from property improvements will not result in increased taxes. This can be used to encourage real property improvements. Similarly, in the case of mitigation programs, any increase in value resulting from adjacent commercial and industrial development will not transfer to existing residential properties.

2. Freeze Tax Payment

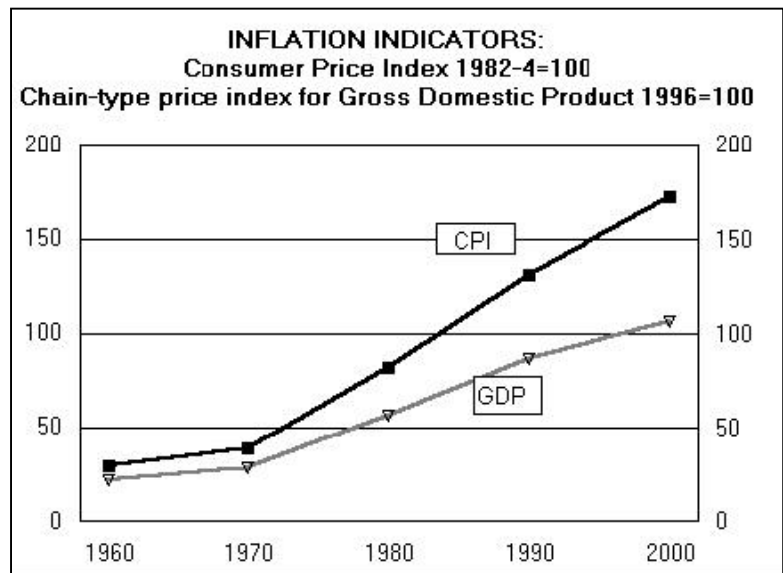
Alternatively, the community may freeze the tax payment due from a property owner. This method may be applied where state or local ordinances require 100% valuation and where freezing of assessed values is not practicable. In this approach, the community agrees not to

increase tax payments from a property owner above an agreed upon limit for a given amount of time.

3. Index Assessed Value or Payment

The shortcoming of freezing assessed values or tax payments is that this deprives the community of the opportunity to keep pace with normal economic growth and gain improved revenues as property appreciates naturally. This can be remedied by tying either the assessed value or the annual tax payment to an index of economic activity. In this method, the assessed value and/or the tax payment is adjusted annually by an amount reflecting local, regional, state, or national economic trends. The Consumer Price Index and the Index of Gross Domestic Product are indexes, which are commonly used as national indicators of economic change. Similar indexes are available at the state level. Local level indexes are usually generated from the average change in assessed value throughout the community each time a reassessment is undertaken.

In this method, the community agrees with the potentially affected property owners to ensure that assessed values (or tax payments) will not increase annually at a rate greater than the net increase in the approved index.



4. Rebate Programs

Rebate programs are also used where freezing tax valuation or freezing of tax payments is impractical. Rebate programs are typically designed to return part of the taxes due in any given year to qualified property owners. In theory, the amount returned should equal the amount of excess tax due on the property as a result of the new development. Therefore, the rebate amount may be tied to the amount invested in real property improvements, to the value of the property at a given time, or to one of the indices mentioned above. Ordinarily, the rebate program is only available to property owners in a particular geographic area (such as a redevelopment district) or to a particular class of population (see “Special Populations” below).

5. Homestead Exemption

A homestead exemption may be provided for every person who has legal or equitable title to real property in the community, resides on the property as of a given date, and in good faith makes it his or her permanent home. If title is held by the husband alone, a wife may file for him, with his consent, and vice-versa. If property is held by the entireties, one spouse may file as agent for the

other. Homestead exemptions are typically available in specified amounts for specified applicant classes. The homestead exemption is designed to ensure that residential property owners can continue to live on their property in spite of changes in property value and resulting changes in tax assessments.

6. Protection for Special Populations

Another category of exemption or tax privilege may be granted to special populations, which the Town wishes to protect. Examples of special classes of citizens include: the elderly, veterans, wounded veterans, handicapped persons, or farmers. In each case, the requirements for eligibility must be clearly specified and the tax abatement measure must be appropriate to the affected class.

C. TAX ABATEMENT PROGRAM ELEMENTS

In any case where tax abatement is proposed, it must be part of a program instituted by the local authority in accordance with local bylaws and state enabling legislation. The following elements are typically included in a tax abatement program.

1. Clearly specified criteria

To be effective, the tax abatement program must clearly indicate who is eligible to participate in the program and who is not. It must be understood that tax abatement is not an entitlement, but is a privilege extended to a certain class of property owners and residents to fulfill an intended purpose.

2. Available only for primary residence

A residential tax abatement program designed for mitigation is typically made available only for community residents, and only for a person's primary residence. To prevent speculation, the abatement is normally not available for non-residents and normally not available for investment properties such as rental units, second homes, or time-share condominiums. (Note that this requirement will normally not apply to abatement programs, which are designed primarily to encourage new development or to stimulate real property improvements.)

3. Property owner must apply

Because residential tax abatement programs are normally available only to resident citizens, most residential mitigation programs require that application be made by resident property owners. The abatement program typically requires the applicant to complete an application form. The form typically requires that the owner provide such information as owner name, address, affirmation or documentation of property ownership, documentation of residency, documentation of eligibility (i.e. proof that the applicant is a member of the eligible class of property owner), length of residency, and similar information in support of the request for tax abatement.

4. Not transferable

Since the intent of a tax abatement program is the stimulation of investment and/or the protection of residents, the abatement itself is typically not transferable from one property owner to another. In other words, the approval of abatement applies to the property owner, and not necessarily to the property itself. This, however, does not mean that new property owners cannot qualify for abatement measures. New purchasers of property within an abatement area (or an abatement population class) must make their own application for abatement measures, subject to the same qualification requirements as the original applicants.

5. Conditional on sustained ownership

Many tax abatement programs are conditional on sustained ownership. The purpose of an abatement program aimed at mitigation is to enable residential property owners to remain residents in spite of property value changes induced by rezoning and development or redevelopment. These programs are not normally designed to provide tax relief for property owners who are “banking” property in anticipation of the future revenues that may be realized through induced property value changes. Therefore most residential abatement programs require that the property owner remain resident on the property throughout the tax period for which abatement has been requested.

Similarly, in the case of abatement programs aimed at stimulating development or real property improvements, the program typically requires that the business or industry to which the abatement applies must remain within the community throughout the tax period for which abatement has been requested.

6. Balance due at time of land transfer

Most abatement programs impose financial penalties for the sale or transfer of properties to which tax abatement programs have been applied, if that sale or transfer results in a change in use. Typically, these penalties are equal to the amount of abatement, which has been applied to the property prior to the sale or transfer of the property.