nyrej

Industrial Development Agencies only realize true benefits when assessments are fair - by Brad Cronin & Sean Cronin

June 06, 2017 - Long Island

Brad Cronin,
Cronin & Cronin Law Firm

Sean Cronin,
Cronin & Cronin Law Firm

Industrial Development Agencies (IDAs), once universally praised for job and revenue creation, are now receiving increased scrutiny as taxpayers demand to know just how they benefit from these agreements. A typical IDA agreement benefits a property owner in a number ways, including fee waivers, exemption from mortgage recording taxes, and sales tax, but the most significant benefit is a property tax abatement. In order to encourage growth and create jobs, a diminished property tax intake in the short-term is seen as being outweighed by long-term economic benefits to the community. While countless IDA agreements have accomplished just that, the promised economic growth from other IDA agreements is increasingly being questioned.

The Green Acres Mall project in Valley Stream is a prime example of this tension. The project received a significant property tax abatement as part of its Payment in Lieu of Tax (PILOT) agreement which is essentially the real estate tax payment required under the agreement. The agreement received little attention until tax bills were issued last October and property owners saw their taxes skyrocket to make up for the lost revenue. What followed was months of meetings, marches, and picketing claiming the public had been kept in the dark. Many felt hoodwinked by an owner who they believe would have remained in the community and reinvested in his property without an IDA agreement.

This is a common dilemma that IDAs are tasked to decide: will the IDA induce new investment or is it a giveaway to investment that will happen regardless? In addressing this issue, IDAs must not only decide if a property owner should receive incentives, but also how big should the incentive be and how long the benefit period should run. This process has been made more complicated by competition from both nearby IDAs seeking to attract investment in their community and by other states actively recruiting companies to their region.

The public should be aware that many owners truly rely on these benefits and would not have built or expanded properties without these tax breaks. Additionally, once the IDA agreement ends, the properties will begin paying their full tax burden, producing revenue that would not be realized absent an IDA agreement.

There are also many IDA agreements that eventually disadvantage property owners. Ultimately, it depends on the type and structure of the IDA agreement. For example, many PILOT agreements are based on an agreed upon assessment and the owner paying a percentage of that assessment. But, given that these agreements can last a decade or more, the accuracy of that assessment can fluctuate significantly over the life of the deal. Many IDA participants do not realize that they can challenge their assessments. These participants continue to pay the percentage of that initial assessment each year without examining the potential for a successful grievance.

We have represented numerous IDA property owners who have had their tax payments significantly reduced or, in some cases, eliminated while they were still in the IDA program because of an excessive assessment. Simply stated, the assessment that serves as the basis for the percentage abatement can be as important as the percentage itself. We recently represented an owner receiving a 50% abatement from an IDA agreement. However, the assessment itself was too high. We were able to drastically reduce that figure and apply the 50% to the new lower amount resulting in tremendous savings over the life of the agreement.

Given the volatility and unpredictability of the real estate market, owners cannot assume that an IDA deal struck years prior still contains a current and realistic property value assessment. Without expert advice, they may be paying tax bills based on inflated values for years to come, paying hard-earned dollars that can and should be reinvested in the community to the government. Despite the controversies surrounding certain IDAs, as a whole they can drive job creation, revenue creation, and improvement in our community’s overall quality of life. But their economic impact can only be maximized if the attendant tax concessions are based on fair and reasonable valuations.

Brad Cronin, Esq., and Sean Cronin, Esq., are partners at Cronin & Cronin Law Firm, PLLC, Mineola, N.Y.