TAX INCREMENT FINANCING

An Advocate’s Toolbox

By: Bria Guthridge and Heather K. Way

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• Overview of TIFs and how they work
• Texas TIF law
• Areas of advocacy
• Case studies of TIFs in Texas
• Discussion and questions
Texas Local Subsidy Programs for Economic Development

- Tax increment financing, Chapter 311, Property Tax Code
  - Available in reinvestment zones

- Tax abatements, Chapter 312, Property Tax Code
  - Available in reinvestment zones (often created in tandem with a Chapter 311 reinvestment zone)

- Chapter 380 agreements, Local Government Code
  - Typically entail a rebate of sales or property taxes in exchange for economic development commitments (e.g., creating new jobs, new construction)
How TIFs Work

Government subsidizes development (up front or through bonds) → Tax Increment → Increased Property Values
Overview of TIFs

- **Tax increment financing** (TIFs) = tool that allows cities and counties to capture tax revenue from growth in **Tax Increment Reinvestment Zones** (TIRZs).

- When a TIRZ is created: Existing assessed value of property in the TIRZ is set as the baseline. As assessed valued increases in future years, the taxes on the increase over the baseline (= “increment”) is redirected out of the city’s general fund into the TIF fund for the zone.

- TIF funds can be used for:
  - Project costs that benefit the zone (costs of public works, public improvements, programs, and other projects benefiting the zone).
  - Certain costs can be outside the zone: public infrastructure, affordable housing, and areas of public assembly.

- Typical length of a TIRZ is 30 years.
How TIFs Work

City Council may extend the TIF beyond the termination date.
How TIFs Work

2008
(TIRZ Created)

Assessed Value: $1,500,000
Taxes Owed: $30,000
General Fund: $30,000
TIF: $0

2019

Assessed Value: $4,000,000
Taxes Owed: $80,000
General Fund: $30,000
TIF: $50,000
How TIFs Work: Dallas example

City of Dallas

18 active TIF districts with combined project budgets of $2.9+ billion
How TIFs Work: Dallas example
How TIFs Work: Dallas example

City of Dallas: Oak Cliff Gateway TIF

- Historically African-American neighborhood
- Currently one of the fastest gentrifying areas in Dallas
- 52-year TIRZ; 1992-2044
- To date: $34 million in city TIF subsidies + $67.4 million in other government subsidies
City of Dallas: Oak Cliff Gateway TIF

### Oak Cliff Gateway TIF District

<table>
<thead>
<tr>
<th>Category</th>
<th>TIF Budget</th>
<th>Allocated</th>
<th>Balance</th>
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<tr>
<td>Oak Cliff Gateway Sub-district:</td>
<td>$34,158,096</td>
<td>$18,319,760</td>
<td>$15,838,338</td>
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<tr>
<td>• Public Infrastructure Improvements including Streets, Streetscape, Water, Wastewater, Utility Burial</td>
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<td>• Façade Improvements</td>
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<td>• Environmental Remediation and Demolition</td>
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<td>• Pedestrian Linkages/Lighting</td>
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<td>• Economic Development Grants</td>
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<td>Administration and Implementation²</td>
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<tr>
<td>Total Project Costs</td>
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¹ Budget shown above in current dollars; TIF Project Plan shows the budget in net present value.
² TIF administration costs shown are expended or committed through FY 2016.
## City of Dallas: Oak Cliff Gateway TIF

### How TIFs Work: Dallas example

<table>
<thead>
<tr>
<th>Project</th>
<th>Location</th>
<th>Calendar Year Complete</th>
<th>Status</th>
<th>Units/SF</th>
<th>Approx. Value</th>
<th>TIF Investment</th>
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<tbody>
<tr>
<td>Walgreens</td>
<td>1306 North Beckley Avenue</td>
<td>1999</td>
<td>Complete</td>
<td>13,833 SF</td>
<td>$1,489,410</td>
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<td>Oak Cliff TIF Infrastructure Project</td>
<td>Greenville Lane (Beckley to Zang)</td>
<td>2004</td>
<td>Complete</td>
<td>N/A</td>
<td>N/A</td>
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<td>Lake Cliff Tower Residential</td>
<td>329 East Colorado Boulevard</td>
<td>2006</td>
<td>Complete</td>
<td>54 units</td>
<td>$10,230,920</td>
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<td>Grand Bank Lake Cliff Tower</td>
<td>1300 North Zang Boulevard</td>
<td>2008</td>
<td>Complete</td>
<td>6,822 SF</td>
<td>$1,978,380</td>
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<td>Bishop Colorado Retail Plaza</td>
<td>1222 North Bishop Avenue</td>
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<td>Complete</td>
<td>15,720 SF</td>
<td>$4,489,000</td>
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<td>Zang Triangle</td>
<td>380 E. Oakenwald</td>
<td>2012</td>
<td>Complete</td>
<td>256 units</td>
<td>$35,410,650</td>
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<td>Oaks Trinity (formerly Ailan Trinity)</td>
<td>323-333 E. Greenbriar Lane</td>
<td>2014</td>
<td>Complete</td>
<td>167 units</td>
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<tr>
<td>Bishop Arts Pl.</td>
<td>Blocks at Bishop Ave./Melba St./Madison St./St.</td>
<td>2017-2019</td>
<td>Retail partially complete, residential units</td>
<td>246 units; 30,000 sf retail; 20,000 art garden</td>
<td>$34,000,000</td>
<td>$5,000,000</td>
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<tr>
<td>Victor Prosper (Bishop Arts Station)</td>
<td>SW &amp; NW corners of Davis Street &amp; Zang Boulevard</td>
<td>2018-2019</td>
<td>Phased opening - 120 units complete; remainder under constr.</td>
<td>216 units; 27,302 sf retail</td>
<td>$30,000,000</td>
<td>$11,250,000</td>
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<tr>
<td><strong>Subtotal</strong></td>
<td><strong>939 units 16,677 SF retail/office/commercial</strong></td>
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<td><strong>$139,263,360</strong></td>
<td><strong>$34,435,760</strong></td>
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Example: Zang Triangle Development
City of Dallas: Oak Cliff Gateway TIF Zang Triangle Development

- $7.2 million in city TIF subsidies for 260-unit apartment complex ($28k/unit subsidy).
- Market rents:
  - Studio: $1,100
  - 1-bedroom: $1,500;
  - 2-bedrooms: $1700
- 20% of units affordable at 80% AMI for 15 years
  - = $50,000 for 2-person household; $1,250 for one-bedroom apartment or efficiency
- Vs: Dallas median hhd income = $43,000

Excerpt from HUD Fair Housing finding letter to City of Dallas, Nov. 22, 2013 (Citing Zang)

The significance of using the 80% AMFI rate is that it functions like market rate rent despite being categorized as affordable. Between October 2009 and January 2010, the City supported numerous projects with this set as the affordable rate. While 80% is affordable, it is moderate-income housing and does not serve low- or very low-income persons and it does not provide opportunities to the underrepresented population of African Americans, Hispanics, and persons with disabilities in the community. Emphasizing this
TIFs are Inequitable and Nontransparent

Houston TIF Disparities

“The TIRZ systems benefits high-dollar commercial areas and essentially ignores poorer neighborhoods that are primarily residential.” –Houston Press, 2015

2014 Revenue Comparison

<table>
<thead>
<tr>
<th>Uptown TIRZ</th>
<th>5th Ward TIRZ</th>
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<tr>
<td>$33 million</td>
<td>$427,000</td>
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Total Houston TIRZ revenue: $30m (2006) → $136m (2016)
Texas Law, TIRZs, and TIFs

Chapter 311 of the Texas Tax Code, Texas Constitution Article VII
Creation of a TIRZ

Two ways to create a TIRZ in Texas:
- City (or county) adopts at public meeting via an ordinance, or
- Citizen-led petition by owners of properties constituting at least 50% of the zone's appraised value. § 311.005

Necessary documents to create TIRZ:
- Preliminary financing plan, and
- Preliminary project plan.

The ordinance designates the initial board of directors, maps out zone boundaries, includes a TIRZ termination date, and discusses how the TIRZ meets statutory criteria.

Other taxing entities can participate (governing bodies must approve)
• **“But for” test:** City (or county) must determine that TIF investment in the area “would not occur solely through private investment in the reasonably foreseeable future.” § 311.003(a)

• The area must be impairing the growth of the municipality or county due to a § 311.005 “blight” factor, such as:
  - Deteriorating structures,
  - Unsanitary or unsafe conditions, etc.

• For petition TIRZs, no blight requirement. § 311.005(a)(4)
• Before a TIRZ is created, the city council must prepare a preliminary financing plan.

• The financing plan is often created by a developer or petitioner for the TIRZ.
A public hearing is required for:

- Creation of a TIRZ (at least one week notice required)
- Adoption of project and finance plans
- Amendment of project and finance plans
  - Increase in project costs
  - Modification to boundaries.
  - Increase in amount of bond indebtedness.
- Increase in duration of the TIRZ
• The ordinance must contain:
  • The boundaries of the zone,
  • The list of the board of directors,
  • A termination date for TIRZ, and
  • How the zone meets the criteria for creating a TIRZ.

§ 311.004(a)
• The City Council appoints the board of directors. City Council members are not precluded from board membership. (Tex. Gen. Op. GA-0169)

• For a petition-created TIRZ:
  • 9 board members total; all members must own property in the zone or be an employee of someone who owns property in the zone.

• For a city-created TIRZ:
  • At least 5 but no more than 15 board members; all members must reside in the county where the zone is located or the county adjacent.

• All participating taxing units get to appoint a member.

• All other empty seats appointed by the city council.
The board of directors must adopt a project plan and final reinvestment zone financing plan for the TIRZ. The plans must then be approved by the city council.

The final financing plan must include:

- A detailed list describing the estimated project costs of the zone, including administrative expenses;
- A statement listing the proposed kind, number, and location of all public improvements to be financed by the zone;
- An economic feasibility study;
- The estimated time when related costs are to be incurred;
- A description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay for the costs; and
- The estimated amount of bond indebtedness. § 311.011(c)
• The final project plan must include:
  • A map showing existing uses and proposed uses of property in the zone;
  • Any proposed changes of zoning ordinances, the master plan, building codes, or any other ordinances;
  • A list of estimated nonproject costs, and
  • Statement of a method of relocating persons to be displaced, if any, as a result of the project. § 311.011(b)
CITY COUNCIL Prepares Preliminary Financing Plan

CITY COUNCIL Approves the TIRZ at a Public Hearing

Board of Directors Appointed by City Council

City Council Approves the Final Financing and Project Plans

Tax Increment Begins to Accrue

Documents created:
- Project Plan
- Financing Plan

Projects may apply for financing in the TIRZ.
- Project and financing plans can be amended.
The board of directors or city council can enter into agreements utilizing TIF funds for any project costs that the board or governing body “considers necessary or convenient” to implement the project plan and financing plan. § 311.010(b)

- TIF funds may be used to pay for certain projects outside the zone, including:
  - Public infrastructure,
  - Affordable housing, and
  - Areas of public assembly. § 311.010(b)

- Cities may issue bonds or utilize “Pay as You Go” (reimburse the developer with tax increment).
Disadvantaged businesses in a petition-created TIRZ receive preference when the TIRZ board procures supplies, materials, services, and equipment for the TIRZ. § 311.0101

The board of a petition-created TIRZ must:

- Implement a program targeted to disadvantaged businesses to inform them of the zone’s procurement process and opportunities to participate,

- Take steps that are necessary to ensure that all disadvantaged businesses are made fully aware of opportunities in the zone. § 311.0101(b).

- Require contractors to make a “specific showing of how they intend to maximize participation by disadvantaged businesses as subcontractors.” The board must evaluate these actions when selecting prime contractors.

- Identify disadvantaged businesses in the county that provide or have the potential to provide supplies, materials, services, and equipment to the zone; and identify their barriers to participation

- Prepare an annual report listing all contracts by number and dollar amount awarded to disadvantaged businesses, along with other contracts awarded.
Areas of Advocacy
Potential Areas of Advocacy: Summary

- **At creation of a TIRZ**: Can help shape boundaries, composition of board, goals of TIRZ, policies governing funds, project and financing plans.
- **Getting on the board** ensures that a community-oriented voice is represented on the TIRZ.
- **Watchdog** role over ongoing expenditures makes the TIRZ more accountable.
- **Shaping local TIF policy** to ensure inclusion of social justice considerations in future TIRZs.
- **Advocate for TIRZs** dedicated to truly affordable housing.
- **Challenge systematic inequities and racial injustices** with TIRZ funding across the city.
When individual TIF project and financing plans are put forward, there are a number of areas for potential advocacy, including:

- Affordable housing (onsite affordable units; dedication of $; voucher acceptance; tenant rights, etc.).
- Worker’s rights such as fair wages and safety protections.
- Inclusion of affordable commercial spaces for local businesses.
- MWBE contracts
- Displacement
  - All TIF Project Plans must include a notice if any displacement is going to occur and a plan to relocate displaced persons. § 311.011(b)(4).
  - Many project plans say no displacement will occur. This may not always be accurate.
• All taxing entities participating in the TIRZ may appoint a board member, but they are not required to do so.

• The remaining members of the board are appointed by the city council (or county commissioners). § 311.009(a)
Potential Areas of Advocacy: Watchdog Role

- TIRZs are subject to the Texas open meeting and records laws and must submit an annual report (311.016(b)).
- Review the annual reports for:
  - Conflicts of interest (e.g., someone on the board is awarded a project in the district)
  - Conflicts with the TIRZ’s project and finance plans
  - Unreasonable expenditures
  - Monitor any affordable housing and disadvantaged business requirements.
    - Dallas audit found noncompliance with AH requirements.
    - HUD Letter of Finding of discrimination against City of Dallas concerning TIFs: HUD requires TIF properties must accept voucher holders in at least 25% of units
    - Houston Chronicle coverage on Houston’s affordable housing set aside
- Attend meetings and hearings regarding the TIRZs.
  - City council meetings and TIRZ board meetings.
  - TIRZ board must meet at least once a year.
• What is the TIF money being spent on?
• Annual reports may not include enough information to scrutinize TIF expenditures, so may need to submit public information requests

<table>
<thead>
<tr>
<th>Uses of Funds</th>
<th>Parcel A</th>
<th>Parcel B</th>
<th>Parcel C</th>
<th>Parcel D</th>
<th>Parcel E</th>
<th>Parcel F</th>
<th>Parcel G</th>
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Potential Areas of Advocacy: Local TIF Policy

- Most cities have a policy that governs all TIFs in city. This policy could address a number of important social justice considerations.

- Examples:
  - Affordable housing requirements. Address income targeting, length of affordability terms, family units.
  - Requirements to not discriminate against voucher holders and ban on minimum income policies
  - Enhanced tenant protections. See Austin policy.
  - Worker protections.
Sample TIF Affordable Housing Policies

- **Dallas**: At least 20% of all housing receiving TIF funding must be affordable to 80% AMI households for 15 years. “Affordable” rents out of reach for most low-income renters (80% Dallas AMI = $50,000 income for 2-person households; $1,250 for one-bedroom apartment).
  - Advocacy opportunity: Deeper and longer affordability; units for families with children.

- **San Antonio**: The City “may require” that up to 20% of the proposed housing units in a TIRZ be affordable in accordance with city guidelines (affordable = serving households making a maximum of 60% AMI).
  - Advocacy opp: Make AH mandatory vs optional

- **Fort Worth**: Any residential projects receiving TIF support must set aside a minimum 20% of units as affordable (half for 60% AMI, half for 80%).

- **Houston**: 30% of TIF funds in each petition TIRZ must be used for affordable housing (required by Section 311 of the Tax Code; only applies to Houston; no definition of “affordable”).
  - Advocacy opp: Define affordable housing and create program guidelines. Monitor implementation.
Portland enacted a 30% affordable housing set aside of TIF Funds ($152m over five years) citywide; in response to local advocacy campaign.

N/NE Portland: Advocates got the city to redirect $100 million TIF funding over 6 years towards addressing displacement and affordable housing.
Potential Area of Advocacy: Petition for a TIRZ to Advance Social Equity Goals

- Can create new TIRZs focused on addressing displacement in gentrifying neighborhoods. 100% of TIRZ funding can be dedicated towards affordable housing and other equitable development goals.

- For example, the Alamo Community Group successfully petitioned the City of San Antonio to create a TIRZ on the west side of San Antonio to fund public improvements for a new 60-unit single family subdivision of affordable homes.

- Community groups can petition to create a TIRZ pursuant to § 311.005 if they own a significant amount (50%) of land in the area.
Potential Area of Advocacy: Challenge Systemic Inequities with TIRZ Funding

- Policy advocacy to highlight systematic racial and ethnic disparities in expenditures on infrastructure across the city.

Case Studies
San Antonio, Dallas, Fort Worth
Dallas: Cedars TIRZ

• Created in 1993
• Slow to take off.

Overall amount spent:
• $1.9 million in tax abatements.
• $6.3 million in TIRZ projects.

Projects include:
• Lorenzo Hotel: $2.3 million
• 144 Belleview: Low Income Housing tax credit complex; $1.6 million TIF funds for infrastructure
• Southside Flats: $1.9m tax abatement for 290 market-rate apartments.
Dallas: Vickery Meadows TIRZ

• Created in 1992
• Two separate areas: Five Points and Park Lane.
• $73 million total TIF expenditures
• Shops at Park Lane: $33 million in TIF Funds. 548 market apartments + retail and office space. No affordable units.
• Dedication of $1 million towards affordable housing in district. Only $445,000 spent as of 2018.
San Antonio: Midtown TIRZ

- Created in 2008.
- Focused on providing tax breaks (reimbursements) to new market developments
  - $8.6 million tax abatement and rebate for 10-story office tower for bank (1803 Broadway)
  - $3.9 million in tax abatement and reimbursement for Brewery South; 223-unit market-rate apartment complex
  - $3.1 million for 120 9th Street Apartments (rents: $1,300 to $5,000 a month)
  - $3.3 million tax reimbursement for the Cellars apartments (rents: $2000 to $14,000 a month)
  - $2.7 million debt repayment for the Brackenridge Garage
  - $3.3 million tax reimbursement for the Alamo Manhattan luxury apartments
- No mention of affordable housing in project plan.
- One affordable housing development: Museum Reach Lofts
  - 94-unit apartment complex. Received $2.8 million in TIRZ funds.
San Antonio: Houston Street TIRZ

- Created in 1999. Termination extended to 2034.
- Total TIF revenues (1999-2034): $145 million
- Sample Project Costs:
  - Maverick Apartments: Conversion of affordable federally-subsidized apartments to luxury housing. $416k tax abatement from TIRZ along with additional tax abatements. TIRZ plan said “no displacement.”
  - Frost Bank Tower: $3 million for public infrastructure
  - $15k for new gas lights on the Maverick Distillery Building.
  - Walgreens/Stuart and Kress building renovations.
  - $6.3 million in parking subsidies for two corporations.
  - $15 million for police department
  - Potential $2m in tax abatements for USAA parking lot improvements
San Antonio: Tarasco Gardens TIRZ

• Petition-created TIRZ that will provide 60 affordable homes.
• TIF funded: $1.3m infrastructure
• Alamo Community Group purchased the land with the help of a loan, and petitioned the city of San Antonio to create the TIRZ.
• Half of the homes will be available for buyers who make 80 percent of AMI, the other half for those up to 120 percent AMI.
Established in 1995.

Examples of investments:

- 246-room AC Marriott Hotel on Main Street
  - $68.5 million investment.
  - TIRZ participation: $4.1 million ($3.1 m to pay for electrical vault for hotel)

- 25-story Frost Tower. $4.8 million for electrical vault and infrastructure work in public right of way

- Downtown Parking
  - TIRZ: $38 million for parking leases since 1995
  - $1.5 million parking subsidies in 2018.
Questions and Discussion