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Statement of Position TIF Four-Year Knock-Down Rule

The provision of the TIF Act referred to as the Four-Year Knock-Down Rule requires development activity to take place on each parcel within a tax increment financing (TIF) district within four years from the date of certification of the original net tax capacity of the district.¹ If development activity on a parcel has not begun within the required time frame, no additional tax increment may be collected from that parcel and its value must be excluded from the district's original net tax capacity.

To give authorities flexibility to respond to the recession and the slowdown in real estate development, the 2009 Legislature extended the Four-Year Knock-Down Rule for districts certified on or after January 1, 2005, and before April 20, 2009.² For these districts, the Four-Year Rule was extended by the 2013 Legislature to end on December 31, 2016.³ For all other districts (districts certified before January 1, 2005, or after April 20, 2009), the Four-Year Rule continues to apply as a four-year limit.

The Rule requires the development authority to submit evidence to the county auditor that development activity has occurred on each parcel in the district within the four-year (or extended) period. The evidence must be submitted by February 1 of the fifth year following the year the original net tax capacity of the district was certified.⁴ The development activity required by the Rule includes demolition, rehabilitation, renovation, and other site preparation. "Other site preparation" can include street improvements adjacent to a parcel in a TIF district, but street improvements are limited to construction or opening of a new street, relocation of a street, or substantial reconstruction or rebuilding of an existing street. Installation of utility services, including sewer or water systems, does not qualify as development activity.

¹ Minn. Stat. §§ 469.174 to 469.1794, inclusive, as amended; Minn. Stat. § 469.176, subd. 6 (the four-year knock-down rule).

² See 2009 Minn. Laws ch. 88, art. 5, § 7.

³ 2013 Minn. Laws ch. 143, art. 9, § 5.

⁴ For districts certified on or after January 1, 2005, and before April 20, 2009, the evidence must be submitted by February 1, 2017.

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This Statement of Position is not legal advice and is subject to revision.

The county auditor must exclude the original net tax capacity of any parcel on which there has been no development activity. The exclusion of the original net tax capacity does not mean the parcel is eliminated from the district. If the authority or owner of the parcel subsequently begins site preparation on that parcel in accordance with a TIF plan, the authority may reinstate the excluded parcel in the existing district and certify to the county auditor that development activity has begun.

The county auditor would then add the original net tax capacity of the parcel to the original net tax capacity of the rest of the parcels in the district. The term of the district for the parcel would remain the same as for other parcels in the district, but the tax capacity that is now the “frozen base” (or original net tax capacity) for that parcel is the tax capacity of the parcel as most recently certified by the Department of Revenue.

Alternatively, the authority may decide to include the parcel in a new TIF district. In that instance, the parcel should be eliminated from the original TIF district.⁵ A possible benefit of including the parcel in a new TIF district is that years available for a parcel in a new district would likely be more than the years remaining for the parcel in the existing district.

⁵ A formal modification of the original TIF plan would not be required. *See* Minn. Stat. § 469.175, subd. 4(e).