

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

GRASSROOTS COLLABORATIVE and)
RAISE YOUR HAND FOR ILLINOIS)
PUBLIC EDUCATION,)
)
Plaintiffs,)
)
v.)
)
CITY OF CHICAGO,)
)
Defendant.)

No. 2019CH04888

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiffs Grassroots Collaborative and Raise Your Hand for Illinois Public Education, by their undersigned counsel, complain against Defendant City of Chicago (“Defendant”, “City of Chicago”, or “City”) as follows:

INTRODUCTION

1. Despite the City of Chicago’s rapidly growing wealth inequality, entrenched racial and ethnic segregation, and the struggle to adequately fund a viable public education system and stem the loss of student enrollment, the Chicago City Council, on April 10, 2019, approved a massive redevelopment plan for the area around Lincoln Yards, a North Side area sandwiched between three of the whitest, wealthiest, and most economically vibrant neighborhoods in Chicago.

2. The approval by the City Council includes support of the project with up to \$1.3 billion in public tax money generated through the use of Tax Increment Financing (“TIF”), a program designed to spur economic development, which would not occur without economic support and incentives, in blighted areas. These TIF funds, including up to \$1.3 billion for

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Lincoln Yards through the Cortland and Chicago River TIF District,¹ are siphoned off directly from increases to the general property tax base and are therefore unavailable to support the annual levies from taxing bodies such as public schools and parks.

3. This flagrant misuse of the TIF system by the City for the Lincoln Yards development is just the latest in a long history of rampant abuses. For over 30 years, the City of Chicago has used TIF as a tool for economic development. During this period, hundreds of millions of dollars in property tax revenue have been siphoned from the general tax base to separate accounts for over 170 TIF Districts in areas that have been designated by the City as blighted or at risk of becoming blighted and where the City claimed that, but for TIF as a method of financing, development would not reasonably be anticipated to occur.

4. Through misuse of the TIF system, many areas where TIF Districts were created already had natural economic growth or would have seen growth without the TIF. The City's investment in such areas, including with TIF funds and other development incentives, resulted in incremental tax revenue remaining in such areas that otherwise would have been allocated citywide, to the benefit of all Chicagoans.

5. By enabling TIF Districts to be created in areas that fail to satisfy the State of Illinois' statutory requirements of blight and the "but-for" test, the City not only has violated state law, but it also has administered the TIF system in a racially and ethnically discriminatory manner, as hundreds of millions of tax dollars collected from taxpayers citywide have disproportionately benefited majority-White census tracts to the detriment of majority-African American and majority-Hispanic census tracts.

¹ In this Complaint, the term "TIF District" refers to a redevelopment project area that has been approved to receive TIF funding under TIARA. *See* 65 ILCS 5/11-74.4. At times in this Complaint, the term "redevelopment project area" will be used in reference to the creation of a redevelopment plan and the process of adopting tax increment financing for the redevelopment project area.

6. The City's illegal administration of the TIF system to approve districts such as the Cortland and Chicago River TIF cannot stand. To do so would allow for an unrestrained process without limits to the amount of taxpayer dollars that the City can make available to entice developers to build in areas in which they otherwise would have built without the subsidy. A continuation of the City's unlawful administration of TIF will predictably result in the continued discriminatory effects on other areas of the city that are predominantly African American and Hispanic, actually are blighted or at risk of being blighted, and genuinely need the City's investment and TIF as a method of financing projects in order to promote economic development and revitalize communities.

7. Pursuant to the Illinois Civil Rights Act of 2003, 740 ILCS 23, and the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4, the Court can and should declare the Defendant City of Chicago's administration of the Tax Increment Financing system invalid, enjoin activity in furtherance of the Cortland and Chicago River TIF District, and order the Defendant to implement a fair, lawful, and nondiscriminatory process for creating TIF Districts, at the earliest feasible date.

VENUE

8. Venue is proper in this court pursuant to 735 ILCS 5/2-101 because the transactions out of which Plaintiffs' causes of action arose occurred in Cook County.

PARTIES

9. Plaintiff Grassroots Collaborative ("Grassroots Collaborative") is a nonprofit organization composed of eleven membership-based organizations in Illinois² that works to

² These organizations include: Action Now Institute, American Friends Service Committee, Brighton Park Neighborhood Council, Chicago Coalition for the Homeless, Chicago Teachers Union, Enlace Chicago, Illinois

create equitable policy across the state of Illinois. Grassroots Collaborative's mission is to bring together organizations across different political movements to resist the corporate interests working against its constituents. Grassroots Collaborative has been advocating for equitable development in Chicago and across Illinois for 20 years.

10. Grassroots Collaborative's advocacy addresses a wide range of issues that impact disenfranchised people across Chicago and Illinois. Such issues include: closing corporate tax loopholes such as the carried interest loophole that exclusively benefits the wealthy at the expense of schools and communities; implementing a progressive income tax (also known as a "Fair Tax"); and raising the minimum wage to \$15 per hour in order to boost the economy and bring in more tax revenue.

11. Grassroots Collaborative also has devoted significant time and resources to developing and implementing an intensive training program for its membership-based organizations and other community members called the "People's Academy."

12. However, over time Grassroots Collaborative has diverted scarce resources away from pressing work in these areas and instead devoted them to addressing inequities caused by the City of Chicago's administration of the TIF system which, left unaddressed, detrimentally affects Grassroots Collaborative's ability to advocate for equitable development in Chicago and to resist the use of public funds to benefit the interests of corporations over community residents and taxpayers.

13. Grassroots Collaborative's advocacy to reform Chicago's administration of the TIF system has included drafting a 2013 report titled, "Downtown Prosperity, Neighborhood

Hunger Coalition, Jane Addams Senior Caucus, Logan Square Neighborhood Association, ONE Northside, and Service Employees International Union – SEIU – Healthcare Illinois Indiana.

Neglect: Chicago’s Black and Latino Workers Left Behind.”³ This report analyzed the impact of the City’s public investment in downtown Chicago through TIF on the rest of the city, including communities that are predominantly African American and Hispanic.⁴ Grassroots Collaborative found that while such targeted investment “has resulted in a boom for downtown Chicago,” the newly created jobs “overwhelmingly went to people who live outside of the city.” Majority-African American and Hispanic wards lost jobs downtown in that same time period. The City’s focus on corporate relocations, often subsidized by TIF, led “to a systematic destruction of economic opportunity for the city’s current residents, and for Black residents in particular.”⁵ Grassroots Collaborative’s report included several recommendations for reform of the TIF system, including: implementing a “Robin-Hood Porting” measure so that “resources intended to fix urban blight are actually invested in struggling neighborhoods”; declaring a portion of downtown TIF money as surplus and returning the revenue to local taxing bodies; and “creat[ing] a new qualification for TIF spending” such that development agreements “stipulate what new jobs should be created with the subsidy” and that “city residents must benefit from new hires.”⁶

14. Grassroots Collaborative also has engaged for years in efforts to organize communities to challenge the manner in which TIF Districts are used in Chicago, including by organizing and participating in dozens of press conferences, community meetings, and other events, working to introduce ordinances, and preparing members for public comment at City

³ DOWNTOWN PROSPERITY, NEIGHBORHOOD NEGLECT: CHICAGO’S BLACK AND LATINO WORKERS LEFT BEHIND, GRASSROOTS COLLABORATIVE (2013) [hereinafter DOWNTOWN PROSPERITY, NEIGHBORHOOD NEGLECT].

⁴ *Id.* at 2, 4, 13.

⁵ *Id.* at 11-12.

⁶ *Id.* at 13.

Council meetings relating to the creation of TIF Districts and declaring TIF surpluses⁷ so that funds can be returned to schools and other local taxing bodies.

15. Grassroots Collaborative has also diverted program resources from its other activities to specifically address concerns about the establishment of the Cortland and Chicago River TIF District. Grassroots Collaborative has spent numerous hours organizing and participating in many community meetings, press conferences, and other events and preparing members for public comment at City Council meetings and other public hearings targeting the Cortland and Chicago River TIF District. Grassroots Collaborative also mobilized members and other community residents to oppose the creation of the Cortland and Chicago River TIF District through such actions as organizing a bus tour of the area where the Cortland and Chicago River TIF District will be located compared with other areas that are disinvested and are not located in TIF Districts.

16. The unlawful administration of the TIF system by the City of Chicago and the establishment of the Cortland and Chicago River TIF District frustrates Grassroots Collaborative's mission to create equitable policies that improve the lives of disenfranchised people throughout Chicago.

17. As a result of the City of Chicago's unlawful and inequitable administration of the TIF system, Grassroots Collaborative has had fewer resources to devote for its numerous other programs and projects around equitable development and bringing together organizations across different political movements to resist the corporate interests working against its constituents. The establishment of the Cortland and Chicago River TIF District detrimentally affects

⁷ In 2016, Grassroots Collaborative worked to introduce the Chicago Public Education Revitalization Ordinance, which would have established a process to declare TIF surplus funds and allocate them Chicago Public Schools and other taxing bodies. *See* Chicago, Ill., Ordinance 2016-5666 (July 20, 2016).

Grassroots Collaborative's work for equitable development in Chicago and across Illinois. Until the inequities in the City of Chicago's TIF system are corrected, Grassroots Collaborative will continue to experience direct injury to its organization as it will be required to continue to divert staff time and resources to counteract its harmful impact and advocate for reform.

18. Plaintiff Raise Your Hand for Illinois Public Education ("Raise Your Hand") is a nonprofit organization composed of a coalition of parents and concerned citizens who advocate for quality public education for all children in Chicago and Illinois. Raise Your Hand's mission is to engage, inform, and empower parents to protect and strengthen public education for all children in Chicago and Illinois, eliminate inequities in public schools, and work at the grassroots for the public good that is public education. Raise Your Hand has been working on public education advocacy since 2010.

19. Raise Your Hand's advocacy for quality public education includes projects and programs in areas relating to equitable school funding, special education, facilities, curriculum, privatization, standardized testing, student privacy, and democratic, accountable, and transparent school governance. However, over time Raise Your Hand has diverted scarce resources away from pressing work in these areas and instead devoted them to addressing inequities caused by the City of Chicago's administration of the TIF system which, left unaddressed, detrimentally affects Raise Your Hand's ability to protect and strengthen public education for all children.

20. Raise Your Hand's advocacy to reform Chicago's administration of the TIF system has included efforts to declare and release surplus TIF funds desperately needed to support public schools. For example, in 2010 Raise Your Hand launched a TIF campaign to advocate for the return of the TIF surplus to Chicago Public Schools ("CPS") and other local

taxing bodies, and its supporters sent over 3,400 emails to aldermen and then Mayor Richard M. Daley regarding the need to return the surplus. In October of that year, Mayor Daley ultimately declared a TIF surplus that resulted in over \$90 million being returned to CPS.⁸ Three years later, in 2013, Raise Your Hand called for the City to declare a TIF surplus when Mayor Rahm Emanuel announced that \$55 million in TIF funds would be used to purchase land and construct a Marriott hotel near a brand-new DePaul University basketball arena in the South Loop while at the same time over 50 Chicago Public Schools were being closed and school budgets were being slashed.⁹

21. Raise Your Hand has also devoted significant time and resources to supporting parents residing in TIF Districts. Through research, data collection and analysis, and training, Raise Your Hand has supported efforts of such parents to meet with aldermen about the TIF Districts in their wards and advocate for reforms that would increase support for public education. At numerous Chicago Board of Education meetings, Raise Your Hand has presented testimony about school funding inequities and specifically addressed concerns about Chicago's TIF system and the need for reform.

22. Raise Your Hand has also diverted program resources from its other activities to specifically address concerns about the establishment of the Cortland and Chicago River TIF District. Raise Your Hand has expended numerous hours educating and informing parents of students at CPS about the inequities and impact on public education funding resulting from the creation of the Cortland and Chicago River TIF District and organized advocacy and

⁸ News Release, Raise Your Hand for Ill. Pub. Educ., Mayor Daley Proposes Use of TIF Surplus in City Budget - \$90 Million to CPS (Nov. 16, 2010) (<https://www.ilraiseyourhand.org/mayor-daley-proposes-use-of-tif-surplus-in-city-budget-90-million-to-cps>).

⁹ Demarest, Erica, *CPS Closings: Protesters Slam Plan for New DePaul Arena Amid Budget Cuts*, DNAinfo, June 21, 2013, <https://www.dnainfo.com/chicago/20130621/downtown/cps-closings-protesters-slam-plan-for-new-depaul-arena-amid-budget-cuts/>.

action steps to address these concerns. This includes a play-in organized on April 10, 2019 at City Hall prior to the City Council vote approving the Cortland and Chicago River and Roosevelt/Clark TIF Districts.

23. The unlawful administration of the TIF system by the City of Chicago and the establishment of the Cortland and Chicago River TIF District frustrates Raise Your Hand's mission to advocate for quality public education and eliminate inequities in public schools.

24. As a result of the City of Chicago's unlawful and inequitable administration of the TIF system, Raise Your Hand has had fewer resources to devote for its numerous other programs and projects around strengthening public education. The establishment of the Cortland and Chicago River TIF District detrimentally affects the ability of Raise Your Hand to protect and strengthen public education for all children in Chicago and Illinois. Until the inequities in the City of Chicago's TIF system are corrected, Raise Your Hand will continue to experience direct injury to its organization as it will be required to continue to divert staff time and financial resources to counteract its harmful impact and advocate for reform.

25. Defendant City of Chicago is a body politic and a municipal corporation.

FACTUAL ALLEGATIONS

A. Overview of Tax Increment Financing in Illinois

26. For over 50 years, local governments across the country have used tax increment financing ("TIF") for purposes of economic development.

27. The process for designating geographic areas within a jurisdiction to use TIF is governed by state law. Within the last 15 years, all 50 states and the District of Columbia had passed legislation authorizing the use of TIF.

28. In Illinois, the first TIF statute was enacted over 40 years ago, in 1977, and the statute was amended in 1999.

29. Currently, TIF in Illinois is governed by the Tax Increment Allocation Redevelopment Act (“TIARA”). 65 ILCS 5/11-74.4. TIARA allows municipalities to use TIF to fund public and private developments in designated Redevelopment Project Areas (“TIF Districts”)¹⁰ within taxing districts.¹¹

30. Tax Increment Financing and the creation of TIF Districts are intended to eradicate and prevent blighted areas by restoring and enhancing the tax base in those areas:

It is hereby found and declared that in order to promote and protect the health, safety, morals, and welfare of the public, that blighted conditions need to be eradicated and conservation measures instituted, and that redevelopment of such areas be undertaken; that to remove and alleviate adverse conditions it is necessary to encourage private investment and restore and enhance the tax base of the taxing districts in such areas by the development or redevelopment of project areas. The eradication of blighted areas and treatment and improvement of conservation areas and industrial park conservation areas by redevelopment projects is hereby declared to be essential to the public interest.

65 ILCS 5/11-74.4-2(b).

31. Most TIF Districts are designated by municipalities for a period of 23 years and can be extended for an additional 12 years, although certain “Transit TIF” Districts in “intermodal terminal facility” areas are designated for a period of 35 years.

32. When a TIF District is designated, the initial value of all the property in the TIF District is determined and quantified by the Equalized Assessed Valuation (“EAV”). This initial value is set as the “Base Level” EAV. Taxes taken from this Base Level EAV are collected as usual and distributed to the taxing bodies that would normally receive those taxes. In the City of

¹⁰ This Complaint refers to redevelopment project areas that are created or proposed under TIARA and are based on areas that qualify as “Blighted Areas” or “Conservation Areas.” As used in this Complaint, “TIF Districts” does not include Transit TIF Districts or “Industrial Park Conservation Areas,” unless specifically identified as such.

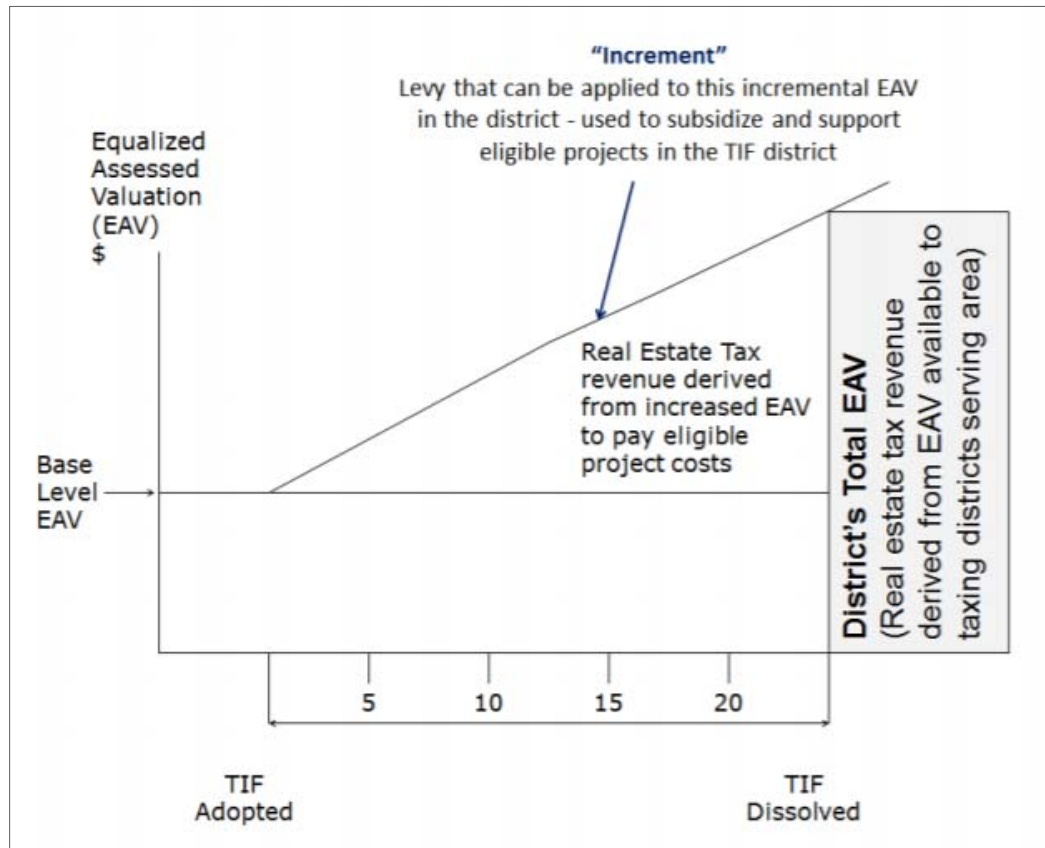
¹¹ The terms “taxing district” and “taxing body” are used interchangeably in this Complaint.

Chicago, apart from the City itself, the following taxing bodies receive tax revenue from the Base Level EAV¹²:

1. Chicago Public Schools
2. City of Chicago Library Fund
3. Chicago Park District
4. City Colleges of Chicago
5. Cook County
6. Cook County Forest Preserve
7. Metropolitan Water Reclamation District of Greater Chicago

33. For the duration of the TIF District, if the value of all the property in the TIF District increases, the portion of the taxes collected that come from an incremental increase in the EAV of the properties in the TIF District will be separated out from the rest of the taxes collected. This amount is calculated by determining which property taxes collected came from the incremental increase in the value of the properties on top of the Base Level EAV. Figure 1 below provides a visual explanation of how the TIF Districts collect funds.

¹² The following are the taxing bodies that would normally receive tax revenue for property in the Cortland and Chicago River TIF District, with revenue for Chicago Public Schools divided between the Chicago Board of Education and the Chicago School Finance Authority.

Figure 1 – “How a TIF Works”¹³

34. The taxes collected from the incremental increase are allocated in a separate fund that can be used by municipalities such as the City of Chicago to fund public projects and private developments in that TIF District or an immediately adjacent TIF District.¹⁴

35. Not every TIF District sees an increase in property taxes because there may not be an incremental increase from the Base Level EAV for property within the district. Therefore, some TIF Districts may not generate any incremental revenue for use in the TIF District.

36. TIF funds may only be used for redevelopment project costs specified in TIARA. These costs include, among other things, administrative costs, public works projects, job

¹³ Figure 1 was prepared in 2011 by the TIF Reform Panel. See TIF REFORM PANEL, FINDINGS AND RECOMMENDATIONS FOR REFORMING THE USE OF TAX INCREMENT FINANCING IN CHICAGO: CREATING GREATER EFFICIENCY, TRANSPARENCY AND ACCOUNTABILITY 9 (2011) [hereinafter 2011 TIF REFORM REPORT].

¹⁴ Using funds in an adjacent TIF District is done through a process called “porting.”

training, housing relocation costs for residents, interest payments, and financing costs. TIF funds can also be paid to developers to cover some of the costs related to a private development. 65 ILCS 5/11-74.4-3(q).

37. After a TIF District expires, the TIF District will be dissolved. Once the TIF District is dissolved, all taxes collected in the future from that district will be distributed to the taxing bodies according to normal procedures. Any remaining surplus funds in the TIF District may be declared by the municipality and returned to the taxing bodies.

B. Requirements Under TIARA for Creation of a TIF District

38. TIF Districts must be designated in accordance with state law. In Illinois, a TIF District may be designated as the following: (a) blighted area, (b) conservation area, (c) industrial park conservation area, or (d) intermodal terminal facility area. 65 ILCS 5/11-74.4.

39. A TIF District also may be designated based on a combination of a blighted area and a conservation area. 65 ILCS 5/11-74.4(n).

a. Requirements for Designating a Blighted or Conservation Area

40. Each type of designated area has a different set of requirements that must be satisfied. For example, in order for an improved¹⁵ area to be designated as a blighted area, a proposed TIF District must be shown to have at least five (5) of the following thirteen (13) characteristics reasonably distributed on the improved land throughout the district:

1. Dilapidation;
2. Obsolescence;
3. Deterioration;
4. Presence of structures below minimum code standards;
5. Illegal use of individual structures;
6. Excessive vacancies;
7. Lack of ventilation, light, or sanitary facilities;
8. Inadequate utilities;

¹⁵ For a vacant area to be designated as a blighted area, a proposed TIF District must be shown to have two (2) of six (6) separate characteristics. See 65 ILCS 5/11-74.4-3(a)(2).

9. Excessive land coverage and overcrowding of structures and community facilities;
10. Deleterious land use or layout;
11. Environmental clean-up;
12. Lack of community planning; and
13. The total equalized assessed value of the proposed redevelopment project area has declined for three (3) of the last five (5) calendar years or is increasing at an annual rate that is less than the balance of the municipality for such a time period, among other factors.

65 ILCS 5/11-74.4-3(a)(1).

41. In order for an area to be designated as a conservation area, which is not yet a blighted area but may become a blighted area, a proposed TIF District must be shown to have at least three (3) of the above-referenced characteristics of a blighted area reasonably distributed on the improved land.¹⁶ 65 ILCS 5/11-74.4-3(b).

42. In order for a municipality to adopt an area as a TIF District, it must demonstrate that the area meets the requirements under TIARA within a redevelopment plan that is conducted or commissioned by the municipality. 65 ILCS 5/11-74.4-4.1.

b. Requirement of Creating a Redevelopment Plan

43. A TIF District for an area qualifying as a blighted area and/or conservation area cannot be created without a redevelopment plan. 65 ILCS 5/11-74.4-4(a).

44. A redevelopment plan must set out a comprehensive program to address or eliminate the conditions which qualified the area as a blighted and/or conservation area. ILCS 5/11-74.4-3(n). It limits how TIF funds in a district can be spent. Redevelopment project costs may only be incurred in furtherance of the objectives of the redevelopment plan. 65 ILCS 5/11-74.4-3(q).

¹⁶ Conservation areas apply only to improved land and do not apply to vacant land. *See* 65 ILCS 5/11-74.4-3(b).

45. The redevelopment plan must include, among other items, an itemized list of the estimated redevelopment project costs, a current assessment of the land, and evidence indicating that the TIF District has not been subject to growth and development through investment by private enterprise. 65 ILCS 5/11-74.4-3(n).

46. Redevelopment plans generally do not identify the developer who is responsible for the projects. They instead identify the needs of the TIF District as a whole and create a plan for addressing the blighting factors that make it eligible for designation as a TIF District pursuant to TIARA.

c. Requirement of Satisfying the “But-for” Test

47. In addition to meeting TIARA’s requirements for designated areas such as blighted areas or conservation areas, a municipality may not adopt a redevelopment plan and designate a TIF District unless “the municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and *would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.*” 65 ILCS 5/11-74.4-3(n) (emphasis added).

48. This requirement is commonly referred to as the “but-for” test as a shorthand for the standard because, “but for” the use of TIF, the redevelopment project area would not “reasonably be anticipated to be developed.”

49. The but-for test has been a requirement under TIARA since the statute was first enacted in 1977 and is also identified in the findings and declarations section of TIARA:

It is found and declared that the use of incremental tax revenues derived from the tax rates of various taxing districts in redevelopment project areas for the payment of redevelopment project costs is of benefit to said taxing districts for the reasons that *taxing districts located in redevelopment project areas would not derive the benefits of an increased assessment base without the benefits of tax increment financing*, all surplus tax revenues are turned over to the taxing districts in redevelopment project areas and all said districts benefit from the

removal of blighted conditions, the eradication of conditions requiring conservation measures, and the development of industrial parks.

65 ILCS 5/11-74.4-2(c) (emphasis added).

50. In addition to Illinois, 16 states and the District of Columbia have included but-for tests in their TIF statutes.¹⁷

51. The but-for test limits the creation of TIF Districts to areas that are not reasonably likely to generate development without the intervention of the municipality. In this way, TIF Districts are intended to be limited to areas where the incremental property tax growth would not exist without the TIF.

52. Conversely, areas with rising property taxes and new development that would immediately benefit the taxing bodies would most likely not qualify under the but-for test. The but-for test therefore is one of the safeguards to ensure that TIFs are not misused in a manner that negatively affects taxing bodies and taxpayers.

53. If the but-for test is not adhered to by a municipality, all of the increased property taxes that normally would have contributed to the general tax base and taxing bodies' levies are instead improperly captured within the TIF District and not otherwise made available to those taxing bodies unless, for example, a TIF surplus is declared in the future.

C. Defendant's Misuse of TIF Undermines Investment in Low-Income Communities of Color

54. A TIF system that is properly administered by a municipality should not have a significant impact on the amount of taxes collected by taxing bodies within the respective TIF Districts. This is because all taxing bodies first set the amount of money they need for the upcoming year (the "levies") and then property tax rates are calculated once all the levies have

¹⁷ DAVID MERRIMAN, IMPROVING TAX INCREMENT FINANCING (TIF) FOR ECONOMIC DEVELOPMENT, LINCOLN INST. OF LAND POL'Y 59-61 (2018).

been set. These levies are restricted by state law to only increase at certain rates. The property tax rate is then set based on meeting the levies of the taxing bodies and must remain uniform across the City regardless of whether any TIF Districts exist. TIF revenue is collected on top of the amount required to meet the taxing bodies' levies and does not contribute to the general tax base that supports the levies.

55. A municipality that misuses TIF increases the individual taxes that are paid directly or indirectly by all taxpayers in the municipality and other taxing bodies where the municipality is located. TIF Districts that are improperly established in areas that would naturally see economic investment and development occur are able to capture and benefit from all of the incremental tax increases for that district, including the incremental increase that comes from the reasonably anticipated development which would normally have gone to the tax base for the entire municipality.

56. Using TIF in this manner creates a stealth tax hike outside of the normal municipal budgeting process, because any and all amount of tax revenue that would have come from the area is now sequestered in a separate TIF fund. That money would have normally gone to paying the levies and must still come from elsewhere in each affected taxing body. Establishing TIF Districts in areas that would have seen incremental property tax growth through development and natural market-based changing neighborhood conditions requires the rest of the municipality to cover lost revenue and increased cost of services to the TIF Districts through increased property tax rates.

57. Further, the use of TIF Districts in areas that would have had new construction and development without the TIF subsidy directly reduces the levies that taxing bodies can set. The levies in certain counties (including Cook County) can only be increased by the lesser of

five percent or the increase in the Consumer Price Index. This cap is created by the Property Tax Extension Limitation Law or “PTELL.” 35 ILCS 200/Art. 18. However, a taxing body can exceed the limitation set by PTELL in certain circumstances, including when there is new construction.

58. For example, CPS increased its levy by 2.6 percent between 2018 and 2019. The maximum increase allowed is 2.1 percent for that year, and the remaining increases come from various exceptions to the cap, including new construction, a Transit TIF,¹⁸ and a pension levy.¹⁹

59. Creating a TIF District in an area that would see development results in the siphoning of immediately available tax revenue away from taxing bodies such as CPS. This prevents CPS from benefiting from new construction that would already be expected to occur. In such cases, a taxing body is artificially prevented from generating the tax revenue it is allowed to under state law.

60. The taxing bodies, under PTELL, will eventually be able to exceed the cap for all the property in a TIF District after the district expires or is terminated. In areas that would normally see development, this prevents the taxing bodies from seeing any of the benefit of new construction for the life of a TIF, which may be up to 35 years.

61. The City of Chicago has designed and administered a TIF system that over time has resulted in far more revenue being generated from projects downtown and on the North Side that were more attractive to developers.

¹⁸ A Transit TIF does not collect all of the incremental property tax growth in the Transit TIF District. A portion of the collected increment goes to the school system, unlike the majority of TIF Districts which take the entire increment.

¹⁹ THE CIVIC FEDERATION, CHICAGO PUBLIC SCHOOLS FY2019 PROPOSED BUDGET: ANALYSIS AND RECOMMENDATIONS 5 (2018).

62. An analysis of reliable economic indicators, such as job growth and investment activity, through time-series comparisons in these downtown and North Side TIF Districts has shown that, on the whole, those areas would have seen economic development benefits notwithstanding the creation of the TIF Districts.²⁰ Such areas do not satisfy the but-for test under TIARA.

63. Instead, because those areas create a predictably higher incremental increase to the value of the land because of naturally occurring economic growth, they are able to cover greater costs of projected investments, resulting in higher subsidies being offered to developers to reimburse project expenses.

64. The Cortland and Chicago River TIF District, for example, is expecting a 28-fold increase in property values over its 23-year span, starting from approximately \$87.4 million and rising to \$2.5 billion. This incredible increase in value is only predictable because the area can attract and sustain development based on the conditions of the land and communities surrounding the area. These conditions are the same conditions which show that the land would develop normally without the use of TIF. As such, these areas do not satisfy the but-for test.

65. TIF Districts created in affluent areas, such as the Cortland and Chicago River TIF District, capture the natural growth and development that would occur in such areas. They also leverage extremely high potential for property value growth that does not exist in areas that are more in need of economic development, which are predominantly communities of color in Chicago.

66. Creating a TIF District in these types of affluent areas, which also correspond with majority-White communities, allows the City to generate an extremely high increment that

²⁰ See T. William Lester, *Does Chicago's Tax Increment Financing (TIF) Programme Pass the 'But-for' Test? Job Creation and Economic Development Impacts Using Time-series Data* 51 URBAN STUDIES 655 (2014).

would not be available in areas that are less attractive to developers. Where these TIF Districts would normally see development, these high-growth TIF Districts put more of a burden on the rest of the City to compensate for the revenue, even though the benefit of those TIF Districts focuses on the area immediately surrounding them.

67. Administering a TIF system in such a way that TIF Districts are being created in or adjacent to predominantly affluent communities that are already expected to attract private development, already expected to see a normal increase in property values, and have a much higher expectation for future land values flies in the face of the intended use of TIF and does not meet the requirements of TIARA. Although this use of TIF provides substantial benefits to those communities that receive new development and services, it is inherently unjust and unfair as the enormous cost of that development is being borne by communities across the entire municipality that see little to no benefit from such increased property values for 23 or even 35 years.

D. Evolution of the City of Chicago's Use of TIF and Concerns Regarding Who Was Benefiting from TIF Compared with Who Was Paying for It

68. Although TIARA was enacted statewide in 1977, it was not until the mid-1980s that TIF was used by the City to address blighted areas.

69. The first TIF District was approved by the Chicago City Council in 1984 for a North Loop redevelopment project.

70. Beginning in 1989, the number of TIF Districts in Chicago increased dramatically from 9 districts to 163 districts by 2011.²¹

²¹ NCBG's TIF ALMANAC 2002-2003 30 (Neighborhood Capital Budget Group, 2002); *see* 2011 TIF REFORM REPORT, at 3.

71. As many as 86 TIF Districts were created during a five-year period from 1998 to 2002. Mayor Richard M. Daley referred to TIF as “the only game in town” for municipal economic development.²²

72. As of 2011, the 163 then-existing TIF Districts covered approximately 30 percent of the city’s area. Approximately 10 percent of the city’s property tax revenue was being allocated to these districts.²³

73. Over the 30 years that the City has used TIF as a tool for economic development, there has been criticism regarding the manner in which the City has siphoned tax revenue from its general tax base and allocated it to specific TIF Districts and concern over whether the City’s administration of the TIF system has operated as TIARA intended.

74. In the 1980s, critics of the City’s first TIF District in the North Loop were concerned that property tax revenue was being taken away from other taxing bodies, including public schools, to support development projects.²⁴

75. As the number of TIF Districts dramatically increased, so did the level of opposition to the way in which the City was using TIF to fund developments and to the lack of transparency regarding the manner in which TIF funds were being spent.

76. For example, in 2002, the Neighborhood Capital Budget Group (“NCBG”), a non-profit citywide coalition formed in 1988, released a study of 36 TIF Districts that found that a total of \$1.6 billion in property tax revenue was expected to grow for these TIF Districts but only \$362 million would be generated as a result of the use of TIF.²⁵ Thus, an estimated \$1.3 billion

²² MIKE QUIGLEY, A TALE OF TWO CITIES: REINVENTING TAX INCREMENT FINANCING 2 (2007) [hereinafter QUIGLEY]; ROB KERH & CELESTE MEIFFREN, ILL. PIRG EDUC. FUND, CLEANING UP TAX INCREMENT FINANCING: RETHINKING CHICAGO’S TROUBLED REDEVELOPMENT PROGRAM 9 (2012).

²³ 2011 TIF REFORM REPORT, at 3.

²⁴ See, e.g., John McCarron, *Pier’s gain is schools’ loss*, CHI. TRIB., Nov. 15, 1983, at 70; John McCarron, *Schools sacrifice in Loop plan*, CHI. TRIB., Feb. 6, 1984, at 21.

²⁵ See QUIGLEY, at 11.

would have been generated without the creation of the TIF Districts and would have immediately contributed to the general tax base.²⁶

77. Plaintiffs Grassroots Collaborative and Raise Your Hand, along with other community organizations, frequently have called for the City to declare TIF surpluses given the massive revenue generation that can result from the use of TIF, particularly in or near the downtown area and on the North Side.²⁷

78. Elected officials also have expressed concerns regarding the City's use of TIF. In 2005, then Cook County Commissioner Mike Quigley released a report that found that 40 percent of the incremental gain in property taxes from 1997 to 2005 was "captured, not caused, by TIF" and thus, "40 cents of every dollar of TIF revenue is money that taxing districts lose to TIF."²⁸

79. Quigley's report also found that a "TIF tax" is applied to all taxpayers in Chicago, regardless of whether they live within a TIF District, and that the TIF tax had increased each year from 1997 through 2005.²⁹ All taxpayers in Chicago must pay the TIF tax because new tax rates must be calculated by each taxing body once the incremental property value is allocated to separate TIF funds for each TIF District. The report stated that, in 2005, the median residential property owner in Chicago paid approximately \$2,433 in property taxes and this was 3.95 percent higher than if there was no allocation of TIF funding from the general tax base.³⁰

80. In 2008, Alderman Leslie Hairston wrote an article in which she identified several ways in which the City was abusing the TIF system, such as the City creating TIF Districts prior

²⁶ *Id.*

²⁷ *See, e.g.,* DOWNTOWN PROSPERITY, NEIGHBORHOOD NEGLECT, at 2, 13.

²⁸ *See* QUIGLEY, at 14.

²⁹ *Id.* at 31.

³⁰ *Id.*

to property tax assessments taking effect in order to “understate the true value already present in those [d]istricts.” Alderman Hairston also criticized the City’s practice of “porting” TIF increment “without public oversight or notice.”³¹

81. In addition, according to at least one report, since 2007 through 2014, the amount of property tax revenue that was being allocated into City-operated TIF funds each year was so high that it exceeded the City’s growing pension liability.³²

E. Mayor Rahm Emanuel’s TIF Reform Panel Report and Recommendations

82. Amidst this growing chorus of concerns, shortly after his election, on May 19, 2011, Mayor Emanuel announced a TIF reform panel to review Chicago’s use of TIF and make recommendations “to bring transparency, accountability, and efficiency to the use of TIF in Chicago.”³³

83. The TIF reform panel issued a report on August 23, 2011 that identified six (6) recommendations to “significantly improve the transparency, efficiency, results and oversight of the City’s use of TIF.”³⁴ The recommendations focused primarily on the approval of TIF-funded redevelopment projects and expanding metrics and performance thresholds for such projects. Notably absent were any recommendations regarding the geographic distribution of TIF Districts or the impact of expenditures of TIF funds on the City as a whole.

84. The TIF reform panel’s recommendations were identified as follows:

- (a) “Establish the City’s TIF Goals” by developing a “multi-year Economic Development Plan”;
- (b) “Allocate Resources” by creating a “multi-year Capital Budget” that “detail[s] the funding of City infrastructure needs” and have “[a]ll TIF infrastructure

³¹ Leslie Hairston, *An overview of TIF districts*, 14 CATALYST (2008).

³² PUTTING MUNICIPAL PENSION COSTS IN CONTEXT: CHICAGO, GOOD JOBS FIRST (2014), https://www.goodjobsfirst.org/sites/default/files/docs/pdf/chicago_pensions_0.pdf (last visited Apr. 17, 2019).

³³ 2011 TIF REFORM REPORT, at 6.

³⁴ *Id.* at 3.

- allocations and porting decisions . . . be made in accordance with the Capital Budget”;
- (c) “Monitor Performance” by “establishing metrics” for the City’s use of TIF that are compiled and reported on a regular basis;
 - (d) “Increase Accountability” by “mak[ing] the justification for public funding of private projects more explicit” among other actions;
 - (e) “Take Action” by subjecting TIF Districts to “strategic reviews” every five years which “lead to the continuation of the district, revision of the district strategy or more significant change”; and
 - (f) “Enhance Oversight and Administration” by “empowering an internal body with clear accountability for all aspects of TIF”, among other recommended actions.³⁵

85. The “Increase Accountability” recommendation section of the report included as a first step for the City to “strengthen, standardize and communicate justification that private TIF projects meet the ‘but-for’ test.” This reference is to a different but-for test than the one that is required by TIARA for the establishment of a redevelopment plan and TIF District and it is not a statutorily required test.³⁶

86. The report further stated that “[t]he City should publish the ‘but-for’ justification for approved projects” in order to “make it easier for the public to understand the rationale for TIF funding for a project” and establish categories of justification, including “Economic Viability”, “Location”, “Affordable Housing”, “Historic Preservation”, and “Competition.”³⁷

³⁵ See 2011 TIF REFORM REPORT, at 36-37.

³⁶ Rather, this project-based but-for test is defined in the City’s Department of Planning and Development’s 2014 TIF Policy Guidelines, as follows: “Public assistance for a project will be premised on the ‘but for’ of TIF assistance, in that the project can be shown as impractical without it (to the detriment of the community in which it is proposed).” See CITY OF CHI. TAX INCREMENT FINANCING POLICY GUIDELINES 6 https://www.chicago.gov/content/dam/city/depts/dcd/tif/plans/TIF_Policy_Guidelines_Updated_January_16_2014.pdf (2014) (last visited Apr. 17, 2019) [hereinafter CHICAGO TIF POLICY GUIDELINES]. This requirement is not binding and is merely a policy guideline that is subject to change.

³⁷ *Id.* at 47-48. For example, the “Economic Viability” justification was described as follows: “[t]he ‘but for’ test must show that developer returns are so depending on TIF funds, that the project would not proceed without it. This is oftentimes the hardest ‘but-for’ rationale to prove.” The “Location” justification was described as follows: “[t]he test could demonstrate that the project would not proceed without TIF funding in a specific district the City has targeted for economic development.”

87. The following year, in 2012, the City's Annual Financial Analysis contained a section titled "TIF" that discussed revenues and expenditures in broad terms and identified steps the City was taking to implement the recommendations made by the TIF reform panel.³⁸

88. These steps included "aligning TIF investments with the City's multi-year economic development plan," "posting . . . assessment reports regarding every proposed private development TIF projects" online, "mov[ing] auditing of TIF projects to the Department of Finance," "char[ging] the TIF Task Force with verifying the value of every proposed TIF deal at the beginning of a negotiation process with a developer," "releas[ing] an RFP to build an online database," and "publish[ing] on the City website new TIF policy guidelines."³⁹

89. In 2013, the City's then Department of Housing and Economic Development launched a TIF Data Portal which the Department described as a "web-based view of TIF-funded economic development, affordable housing and infrastructure projects and their districts."⁴⁰

90. While the TIF Data Portal provided public access to TIF District information that had not previously been available online, the portal, as reported in 2014, did not contain information regarding how or where the revenue brought in from TIF Districts was being spent.⁴¹

91. The City's TIF Policy Guidelines also do not appear to have been updated since July 2014.⁴²

92. Overall, the TIF reform panel recommendations resulted in no significant changes to address abuses or the inherent unfairness in how the system is administered by the City. As

³⁸ CITY OF CHI. 2012 ANNUAL FINANCIAL ANALYSIS 69-72.

³⁹ *Id.* at 72.

⁴⁰ CITY OF CHI. PLAN. AND DEV., TIF DATA PORTAL, https://www.chicago.gov/city/en/depts/dcd/provdrs/tif/alerts/2013/jul/tif_data_portal.html (last visited Apr. 17, 2019).

⁴¹ Kari Lyderson & Alden Loury, *Rahm and Reform: How Far Did He Go?: Budget? Fees? TIFs? Ethics? BGA Policy Team Weighs Results.*, BETTER GOV'T ASS'N, Sept. 3, 2014, <https://www.bettergov.org/news/rahm-and-reform-how-far-did-he-go>.

⁴² *See* TIF POLICY GUIDELINES.

Plaintiff Grassroots Collaborative observed in its 2013 report, “Downtown Prosperity, Neighborhood Neglect: Chicago’s Black and Latino Workers Left Behind,” the Mayor had not “enacted any measures from his own TIF taskforce report . . . that would increase transparency, allow for more public participation, or effectively allocate TIF money as part of a long-term development strategy.”⁴³

F. Today’s Chicago TIF Landscape

93. From 2011 to 2017, the total number of TIF Districts in Chicago decreased to 145 districts and seven new TIF Districts were created.

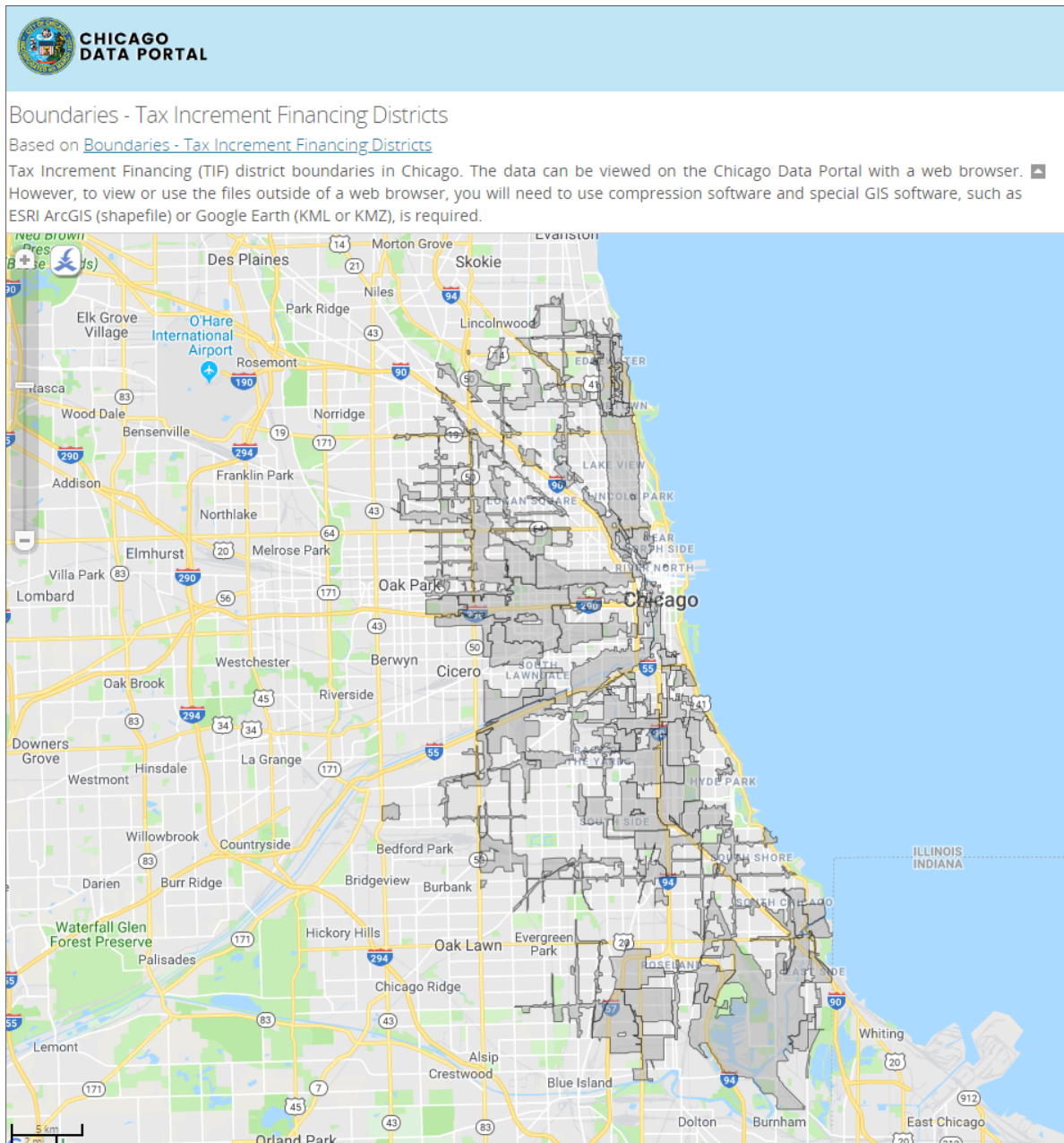
94. Currently, there are 146 active TIF Districts in Chicago,⁴⁴ and so far in 2019 two additional TIF Districts – the Cortland and Chicago River TIF and the Roosevelt/Clark TIF – have been approved by the City, for a total of 148 TIF Districts. According to a 2017 TIF Report released by the Cook County Clerk’s Office, one in four properties in Chicago are located in TIF Districts, as reflected in Figure 2 below:⁴⁵

⁴³ See DOWNTOWN PROSPERITY, NEIGHBORHOOD NEGLECT, at 6.

⁴⁴ CITY OF CHI. PLAN. AND DEV., DISTRICT ANNUAL REPORTS, https://www.chicago.gov/city/en/depts/dcd/supp_info/district-annual-reports--2017-.html (last visited Apr. 17, 2019).

⁴⁵ Press Release, Office of Cook County Clerk David Orr, Cook County TIFs to bring in a record \$1 Billion according to Clerk Orr; Transit TIF revenue doubled (July 24, 2018) (<https://www.cookcountyclerk.com/news/cook-county-tifs-bring-record-1-billion-according-clerk-orr-transit-tif-revenue-doubled>) [hereinafter “Cook County TIFs bring in a record \$1 Billion according to Clerk Orr”].

Figure 2: Chicago Data Portal: Boundaries - Tax Increment Financing Districts⁴⁶



⁴⁶ CHI. DATA PORTAL, BOUNDARIES - TAX INCREMENT FINANCING DISTRICTS, Mar. 19, 2019, <https://data.cityofchicago.org/Community-Economic-Development/Boundaries-Tax-Increment-Financing-Districts/fz5x-7zak>.

95. In 2017, TIF Districts located in Cook County brought in a record \$1 billion in property tax revenue. Of that amount, Chicago TIF Districts brought in more than \$660 million in revenue that was directed to the TIF Districts, which was nearly \$100 million more than in 2016.⁴⁷

G. Origin of the Cortland and Chicago River TIF District

a. History of the Site of the Cortland and Chicago River TIF District

96. The Cortland and Chicago River TIF District covers 168 acres of land that is part of what was previously known as the “North Branch Industrial Corridor.”

97. The Cortland and Chicago River TIF District is located between the Logan Square neighborhood, which has undergone significant gentrification, and some of the most affluent neighborhoods of the city: Bucktown, Wicker Park, and Lincoln Park.

98. The population within a half-mile radius of the center of the Cortland and Chicago River TIF District is nearly 80 percent non-Hispanic White and is only 12 percent Hispanic and four percent African American.

99. As shown in Figure 3 below, the Cortland and Chicago River TIF District’s geographic boundaries stretch from North Avenue on the south to Webster Avenue on the north and from Elston Avenue on the west to Clybourn Avenue on the east.

⁴⁷ COOK COUNTY CLERK, TIF DISTRICT SUMMARY – CITY OF CHICAGO ONLY, 2016 TO 2017 REVENUE COMPARISON (2018).

Figure 3: Map of Cortland and Chicago River TIF District⁴⁸

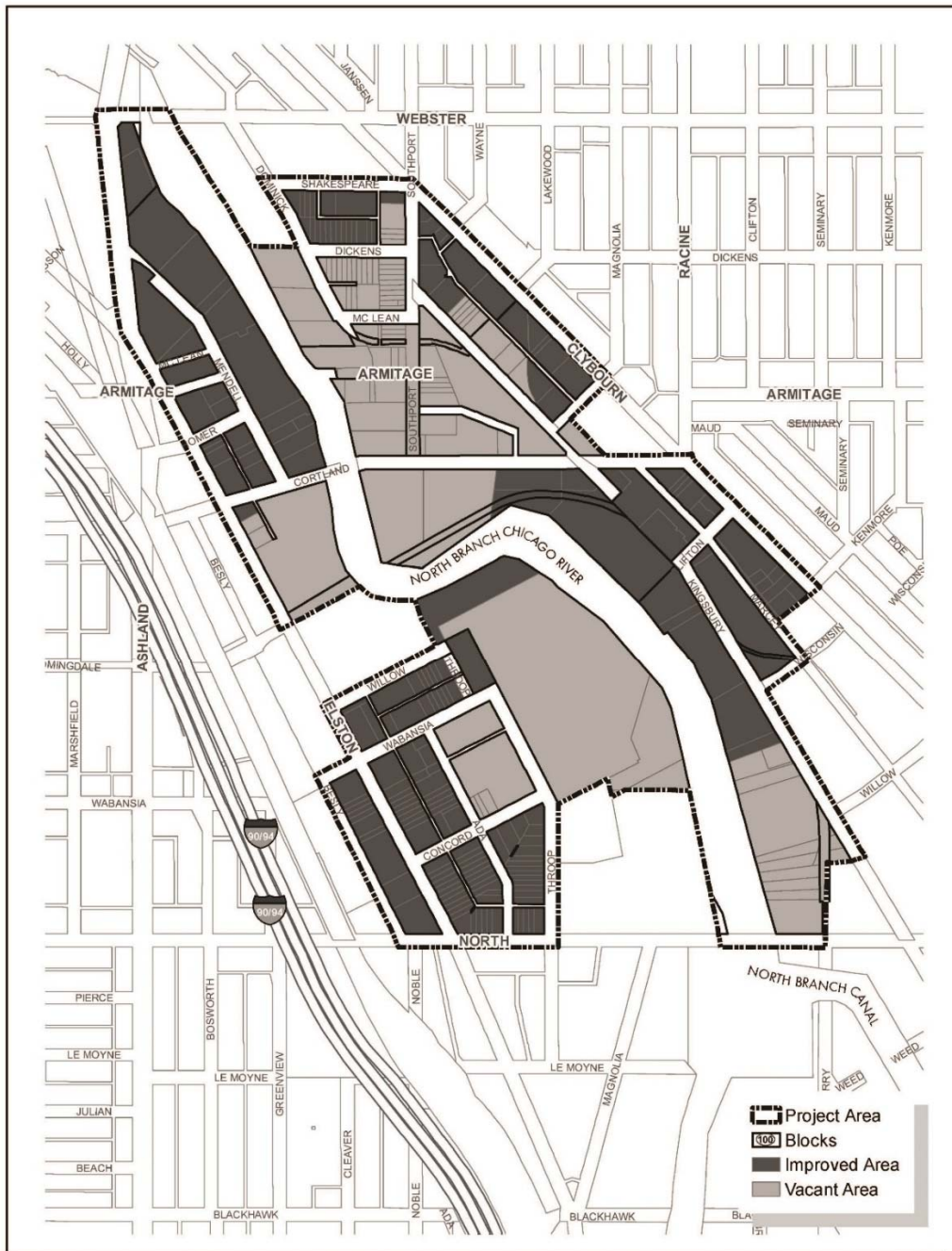


FIGURE 1. Project Area Boundary
CORTLAND/CHICAGO RIVER TIF

Prepared by: Johnson Research Group, Inc. 11.18

⁴⁸ Cortland and Chicago River TIF, Figure 1. Project Area Boundary, Johnson Research Group, Inc., Nov. 2018.

100. Historically, the land in the Cortland and Chicago River TIF District had been used by manufacturing and industrial commercial companies such as Finkl Steel and General Iron since the mid-19th century.

101. In 1986, Alderman Martin Oberman organized a task force to study industrial displacement in what was at that time referred to as the North River Industrial Corridor. The task force recommended the creation of a Planned Manufacturing District for the “Clybourn Corridor,” which encompassed an area that now includes the site for the Lincoln Yards development.⁴⁹

102. A Planned Manufacturing District (“PMD”) is a zoning designation that limits uses of the land to certain industrial uses and requires more scrutiny in development while it maintains the PMD designation.

103. The City created the designation to protect industrial and manufacturing centers so that those types of industries can continue to exist in Chicago.

104. The goal of establishing the Clybourn Corridor PMD was to limit other types of developments and to ensure that industrial and manufacturing uses could remain in the area. The PMD greatly limits the ability for non-manufacturing and industrial development to occur in the area.

105. The Clybourn Corridor PMD was established in 1988 by the Chicago City Council and the Goose Island and Elston Corridor PMDs were established in 1990.⁵⁰

⁴⁹ *Curbing Industrial Decline or Thwarting Redevelopment?: An Evaluation of Chicago’s Clybourn Corridor, Goose Island, and Elston Corridor Planned Manufacturing Districts*, UNIV. WISCONSIN-MILWAUKEE CTR. ECON. DEV., Nov. 2005 <https://www.csu.edu/cerc/researchreports/documents/CurbingIndustrialDeclineOrThwartingRedevelopment2005.pdf>.

⁵⁰ *Id.*

106. The public purpose of PMDs was to protect manufacturing jobs for the benefit of city residents. The PMDs achieved their purpose by stemming redevelopment of the area into residential and retail property that would increase property values.⁵¹

107. The Clybourn Corridor PMD was comprised of two subdistricts. One subdistrict was zoned specifically for heavy manufacturing. The second subdistrict allowed manufacturing, restaurants, and retail activity, and was located adjacent to residential neighborhoods east of Clybourn Avenue.⁵²

108. Between 1990 and 2015, due to such factors as changing economic conditions and the Great Recession, many of the manufacturing operations either moved or shut down, and much of the area is now vacant land after losing the industrial operators.

109. During this period, the PMD restrictions in the second subdistrict were watered down by the granting of special use permits, which allowed additional retail development including Crate & Barrel, Whole Foods, Bed Bath & Beyond, Circuit City, and Old Navy. While 20 percent of the labor force working in the second subdistrict were in manufacturing in 1988, fewer than 2 percent remained in manufacturing by 2004.⁵³

110. For example, Finkl Steel had established its operations in the area in 1901 and moved to Calumet Heights, a suburb south of Chicago, in 2013. The move vacated more than 20 acres of land.

111. In 2015, Morton Salt shut down operations of a storage and packaging facility, selling the property for future use as a research and development facility.⁵⁴

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Ryan Ori, *Morton Salt warehouse redevelopment plans include office, entertainment space along Chicago River*, CHI. TRIB. Jan. 8, 2018, <https://www.chicagotribune.com/business/columnists/ori/ct-biz-morton-salt-ryan-ori-20180105-story.html>.

112. General Iron, which had established operations in the area decades ago, is planning on moving to the southeast side of Chicago along the Calumet River in 2020.

b. The North Branch Framework and Changing Use of the Land

113. In 2016, the City's Department of Planning and Development began a formal process to develop a framework for use of the land called the "North Branch Framework." This process was part of the Mayor's Industrial Corridor Modernization initiative.

114. As early as 2014, Sterling Bay, a Chicago-based real estate developer, began acquiring land in the area by purchasing sites adjacent to the Finkl Steel site. In August 2015, Sterling Bay purchased the former Gutmann Tannery site at 1511 West Webster Avenue for \$21.25 million and the former Lakin General Tire recycling property at 2044 North Dominick Street for \$17.2 million.⁵⁵

115. In April 2016, media outlets publicly reported on Mayor Emanuel's plans to eliminate PMDs and charge a fee to any developers benefiting from the removal, creating the opportunity for the development of residential and retail where it was previously prohibited by zoning.⁵⁶

116. In May 2016, DPD began the North Branch Land Use Study and held what it referred to as "community input opportunity" meetings to solicit feedback for the North Branch Framework.

117. In August 2016, Sterling Bay purchased the Sims Metal property at 1509 West Cortland Street for \$20.25 million.⁵⁷

⁵⁵ Ryan Ori, *Sterling Bay completes deal for massive Finkl site*, CRAIN'S CHI. BUSINESS, Dec. 9, 2016, <https://www.chicagobusiness.com/article/20161209/CRED03/161209827/sterling-bay-completes-deal-for-massive-finkl-steel-site-in-chicago>.

⁵⁶ Ryan Ori, *Mayor's move could bring homes, stores to Finkl site*, CRAIN'S CHI. BUSINESS, April 2, 2016, <https://www.chicagobusiness.com/article/20160402/ISSUE01/304029991/emanuel-considers-ending-usage-restrictions-on-chicago-s-manufacturing-districts>.

⁵⁷ Ryan Ori, *Sterling Bay completes deal for massive Finkl site*.

118. In December 2016, Sterling Bay completed its purchase of the Finkl Steel site for \$140 million.⁵⁸

119. That same month, DPD presented the City's land use framework and North Branch Industrial Corridor goals at a community meeting at UI Labs on Goose Island, in the heart of the Corridor. The City's listed goals included economic and job development, transportation access, and building upon "built assets" such as "continu[ing] the improvement of the riverfront for pedestrians and bicyclists in appropriate locations."⁵⁹

120. On February 21, 2017, DPD presented a draft of the North Branch Framework at a community meeting.⁶⁰ A true and correct copy of the February 21, 2017 presentation is attached hereto as Exhibit A.

121. The North Branch Framework included two approaches that were linked: Land Use/Zoning and Funding.

122. For the Land Use/Zoning approach, the proposed City actions were to reduce PMD boundaries and change the zoning from PMD to Downtown Service and limit future amendments to Downtown Mixed Use. A Zoning Overlay District also was proposed.

123. For the Funding approach, three principles were identified, as shown in Figure 4 below, including "reduc[ing] use of TIF":

⁵⁸ *Id.*; Ryan Ori, *Bill for Finkl Steel site: \$140 million*, CRAIN'S CHI. BUSINESS, Dec. 16, 2016, <https://www.chicagobusiness.com/article/20161216/CRE03/161219914/finkl-steel-site-cost-140-million>.

⁵⁹ "Mayor Emanuel's Industrial Corridor Modernization: North Branch Community Meeting" Dec. 13, 2016, https://www.chicago.gov/content/dam/city/depts/dcd/supp_info/industrial/2016_12_15_NorthBranchPresentation_FINAL.pdf.

⁶⁰ "Mayor Emanuel's Industrial Corridor Modernization: North Branch Community Meeting" Feb. 21, 2017, https://www.chicago.gov/content/dam/city/depts/dcd/supp_info/industrial/NORTH_BRANCH_2_21_17_Public_Presentation_FINAL.pdf [hereinafter Feb. 21, 2017 North Branch Community Meeting].

Figure 4: Excerpt from Department of Planning and Development’s North Branch Community Meeting Presentation, February 21, 2017⁶¹



124. TIF was identified as one of five sources of funding: (1) “Industrial Corridor System Fee”; (2) “Bonus Payments”; (3) “Tax Increment Financing (TIF)”; (4) “Federal and State Funds”; and (5) “Planned Development Contributions.”

125. The February 21, 2017 presentation included a single slide on TIF, stating: “[t]he City will review options for use of tax increment financing as needed to partially fund public improvements, transportation and environmental remediation.”

126. On May 18, 2017, DPD presented the North Branch Framework Plan to the Chicago Plan Commission (“Plan Commission”). A true and correct copy of the May 18, 2017 presentation is attached hereto as Exhibit B.

⁶¹ Feb. 21, 2017 North Branch Community Meeting, at 76.

127. The North Branch Framework was described as a “community-based plan” and both the Land Use/Zoning and Funding approaches were referenced in the presentation. Again, “reduc[ing] use of TIF” was discussed as a funding principle and an identical slide to Figure 4 above was used in the May 18, 2017 presentation.

128. The Plan Commission adopted the North Branch Framework Plan on May 18, 2017.⁶²

129. On July 20, 2017, DPD presented the implementation of the North Branch Framework to the Plan Commission.

130. The presentation discussed various ordinances regarding zoning changes that needed to be made to implement the Framework.

131. On July 26, 2017, the “Industrial Corridor System Fund Ordinance” was passed by the City Council. The ordinance, signed into law on August 1, 2017, repealed portions of the Clybourn Corridor PMD and Elston Corridor PMD, which returned the area to standard zoning rules and paved the way for developments such as Lincoln Yards to be built.⁶³

c. Sterling Bay’s Multi-Billion-Dollar Lincoln Yards Proposal

132. Prior to the removal of the PMD, the land was difficult to develop, in large part because of the restrictions on the type of uses allowed by the PMD. Upon the removal of the

⁶² Chicago, Ill., Ordinance 2017-4840, at 2 (Aug. 1, 2017) (noting that the “North Branch Industrial Corridor Conversion Area is established pursuant to the North Branch Framework adopted by the Chicago Plan Commission on May 18, 2017”).

⁶³ Chicago, Ill., Ordinance 2017-4840 (Aug. 1, 2017).

PMD designation, the area became open to a number of other types of developments, including mixed-use developments that were not previously allowed under the PMD.

133. Given that Sterling Bay began purchasing the land before the PMD was removed, it is the first developer that has had the opportunity to develop this land located along the Chicago River and near affluent Chicago communities as anything other than manufacturing.

134. On September 13, 2017, Sterling Bay released plans intended to lure Amazon to establish its second headquarters at the former Finkl Steel site. The company dubbed the site “Lincoln Yards.”⁶⁴

135. On October 19, 2017, during its acquisition and planning process, Sterling Bay pitched the site to Amazon as a mixed-use development.⁶⁵ A true and correct copy of the October 19, 2017 supplemental response is attached hereto as Exhibit C.

136. In its pitch to Amazon, Sterling Bay claimed that a TIF District would be approved for financing in 2018:

TAX INCREMENT FINANCING (TIF)

Legislation will be approved in early 2018 to expand and extend existing TIF Districts including Lincoln Yards. Between the construction of 8 million square feet for Amazon and other complementary residential, commercial, institutional and open space aspects of the Lincoln Yards master plan, incremental real estate taxes will yield in excess of \$1 billion available for investment in infrastructure, job creation and reimbursement to Amazon.⁶⁶

⁶⁴ Ted Cox, *Sterling Bay Woos Amazon HQ With Renamed Finkl Steel Site* “Lincoln Yards, DNAinfo, Sept. 13, 2017, <https://www.dnainfo.com/chicago/20170913/lincoln-park/finkl-steel-lincoln-yards-amazon-sterling-bay/>.

⁶⁵ Ryan Ori, *Amazon Stadium? Chicago developer hopes it's the ticket to HQ2*, CHI. TRIB., Oct. 27, 2017, <https://www.chicagotribune.com/business/columnists/ori/ct-biz-amazon-stadium-ryan-ori-20171027-story.html>; See Sterling Bay, *Amazon Lincoln Yards: Supplemental Response* at 42 (Oct. 19, 2017) [hereinafter Amazon Pitch].

⁶⁶ Amazon Pitch, Ex. C, at 37.

137. The presentation also stated that “[i]n 2013, Sterling Bay began acquiring these well-located industrial sites which it believed were underutilized, undervalued and positioned for redevelopment.”⁶⁷

138. Further, Sterling Bay also claimed that “Lincoln Yards is the best capitalized site in Chicago.”⁶⁸

139. After being rejected by Amazon in the fall of 2018, Sterling Bay revised its plans for a \$5 billion project for Lincoln Yards that was released publicly in November 2018.

H. DPD and Sterling Bay Joined Forces to Get the Cortland and Chicago River TIF and the Lincoln Yards Development Plan Approved Despite Growing Broad Opposition

140. As more community members learned about the Lincoln Yards development, opposition to the development and the use of TIF to fund it grew.

141. Alderman Brian Hopkins, a primary proponent of the Cortland and Chicago River TIF District’s creation, held public meetings in the summer and fall of 2018 about the proposed TIF District and received numerous comments that were critical of the TIF District.

142. As residents of neighborhoods potentially impacted by Lincoln Yards have learned about the proposed development, the plans have lost public support. For example, in October 2018, the Sheffield Neighborhood Association completed and released the results of a public survey that revealed diminishing community support for the proposed Lincoln Yards development. Of the 883 responses received, only 25 percent of respondents said they “love it” or “feel it is good,” down from 40 percent of those who took a prior survey earlier that year. Nearly 47 percent of respondents in the October survey “did not care for” or “hated” it.

⁶⁷ *Id.* at 42; *see also* Trustee’s Deed, conveying 1824 N. Besly Court and 1854 North Besly Court to 1854 N. Besly, LLC, Oct. 28, 2014 (accessed Apr. 15, 2019 using Cook County Recorder of Deeds search tool).

⁶⁸ Amazon Pitch, at 44.

143. On November 14, 2018, DPD held a community meeting and presented on the “Cortland/Chicago River TIF District Designation.” A true and correct copy of the November 14, 2018 presentation is attached hereto as Exhibit D.

144. The presentation identified the purpose of TIF funding as for public infrastructure development and stated that private developers that construct infrastructure would be reimbursed.

145. Key public infrastructure needs were identified as follows: (1) “Improve existing streets, \$100 million”; (2) “Develop new streets, \$150 million”; (3) “Address Elston, Ashland, and Armitage, \$150 million”; (4) “Transit improvements, \$200 million”; and (5) “606 Extension, \$100 million.” These figures total \$700 million.

146. The presentation stated: “[s]uch figures are for the estimated infrastructure needs across all funding sources – not just TIF.”

147. In November 2018, critics of the Lincoln Yards development from the entertainment industry formed a nonprofit called the Chicago Independent Venue League (“CIVL”) to organize in opposition to the Lincoln Yards plans and the creation of a TIF District. This followed a public meeting at The Hideout, a bar and entertainment venue adjacent to the proposed development site, where members of the public raised concerns about the development. CIVL joined and coordinated with the existing community opposition to the TIF designation and the Lincoln Yards plans, which already included a range of groups and individuals with a wide range of interests including parks, affordable housing, public schools, transportation, public subsidies, equity, and segregation.

148. On December 11, 2018, DPD introduced the Cortland and Chicago River Tax Increment Financing Redevelopment Area Project and Plan (the “Cortland and Chicago River Redevelopment Plan”)⁶⁹ to the City’s Community Development Commission.

149. The Cortland and Chicago River Redevelopment Plan includes an itemized list of redevelopment project costs. This itemized list for project redevelopment costs includes administration, property assembly (site acquisition and preparation), rehabilitation of existing structures, public works and improvements, job training, relocation costs, and interest costs. The total amount of estimated costs for this list is \$900 million. Additionally, a footnote in the Cortland and Chicago River Redevelopment Plan indicates that there will be \$400 million in additional financing fees.

150. Since at least the fall of 2018, community stakeholders have voiced public opposition to the ongoing plan for the Sterling Bay development. 21 of these groups, including Plaintiffs Grassroots Collaborative and Raise Your Hand, signed a January 9, 2019 letter focused on the proposed Cortland and Chicago River TIF District that asked local taxing bodies and members of the Joint Review Board to cancel any approval vote prior to the recent Mayoral elections. The January 9, 2019 letter is attached hereto as Exhibit E.

151. On January 11, 2019, DPD presented the proposed Cortland and Chicago River Redevelopment Project Area to the Joint Review Board composed of representatives of the taxing bodies impacted by the creation of the TIF and one member of the public. At this meeting, members of the public offered comments with the majority questioning the need for TIF or advocating rejection. The comments reiterated arguments that had been made at the November

⁶⁹ The Redevelopment Plan that was introduced to the Community Development Commission was drafted on November 30, 2018 and revised on March 7, 2019 and subsequently was revised again on April 3, 2019. The final revision was adopted by ordinance by the Chicago City Council on April 10, 2019. This Complaint refers to the final revision of the Redevelopment Plan as adopted by the Chicago City Council unless otherwise noted.

2018 meeting hosted by Alderman Hopkins, including that the private developer was likely to pay for development with or without TIF support. The Joint Review Board voted in favor of the proposed Cortland and Chicago River Redevelopment Project Area.

152. On January 24, 2019, the Plan Commission approved the Lincoln Yards Planned Development.

153. On February 19, 2019, a public hearing was held by the Community Development Commission, and the Commission recommended that the Cortland and Chicago River Redevelopment Plan be approved by the City Council.

154. On March 13, 2019, the City Council's Zoning Committee approved the required zoning changes to create the Lincoln Yards TIF District.

155. On March 13, 2019, the City Council approved the zoning changes with 33 yes votes, 14 no votes, and 3 abstentions.

156. On March 13, 2019, the City Council introduced three ordinances which would create the Cortland and Chicago River TIF District, including the Cortland and Chicago River Redevelopment Plan. The first ordinance is titled, "Approval of Cortland and Chicago River Redevelopment Project Area [and] Redevelopment Plan," attached hereto as Exhibit F.⁷⁰ The second ordinance is titled, "Designation of Cortland and Chicago River Redevelopment Project Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelo[p]ment Act," attached hereto as Exhibit G. The third ordinance is titled, "Adoption of Tax Increment Allocation Financing for Cortland and Chicago River Redevelopment Project Area," attached hereto as Exhibit H.

⁷⁰ Attached is the final version of the ordinance, which was revised on April 3, 2019 and substituted on April 10, 2019.

157. On March 13, 2019, the City Council introduced an ordinance titled “Redevelopment Agreement with Alloy Property Company LLC and Fleet Portfolio LLC of Acquisition Land Area Bounded by Webster Ave, Clybourn Ave, North Ave, Elston Ave and Besly Court, for development of infrastructure and mixed uses, to be known as Lincoln Yards,” that would approve subsidiary companies of Sterling Bay (Alloy Property Company LLC and Fleet Portfolio LLC) as the developer for the infrastructure projects proposed for the TIF District (the “Redevelopment Agreement”), attached hereto as Exhibit I.⁷¹ The ordinance, as later amended, would provide up to \$487.3 million (plus financing and interest) for the proposed projects.⁷²

158. On April 7, 2019, Mayor-Elect Lori Lightfoot called for delaying the votes on the Cortland and Chicago TIF District.⁷³ She stated, “From day one, I have raised concerns about these deals and the deeply flawed process that has led to this moment.”⁷⁴

159. On April 8, 2019, the City Council’s Finance Committee held a hearing that lasted several hours in which testimony was given by proponents and opponents of the Cortland and Chicago River TIF District. In deference to the Mayor-Elect’s wishes, there was no vote held on that day. The Finance Committee recessed to consider the matter and intended to reconvene on April 10, 2019.

160. On April 9, 2019, Mayor-Elect Lightfoot announced in a press release that she had met with the developers and they had committed to strengthen the Minority- and Women-

⁷¹ Exhibit I is the final version of the ordinance, which was substituted on April 10, 2019.

⁷² The remainder of the \$900 million in the redevelopment plan will be allocated in the future. All money spent through the TIF District will likely include significant financing and interest fees in addition to the principal amounts approved.

⁷³ The Mayor-Elect also called for delaying the votes on the similarly structured Roosevelt/Clark TIF District.

⁷⁴ Press Release, Lori Lightfoot for Chicago, Lightfoot calls on Finance Committee to hold subject matter hearing on Lincoln Yards and The 78 (Apr. 7, 2019), <https://lightfootforchicago.com/press-release-lightfoot-calls-on-finance-committee-to-hold-subject-matter-hearing-on-lincoln-yards-and-the-78/>.

Owned Business Enterprise participation numbers. The Mayor-Elect did not formally endorse the project, instead merely saying that it was clear it would be approved.⁷⁵

161. On April 10, 2019, the Finance Committee was called back into session. A new 602-page substitute ordinance to the Redevelopment Agreement was introduced. *See* Ex. I. The Chairman called for a vote to recommend the ordinances that would create the Cortland and Chicago River TIF District and commit the City to the Redevelopment Agreement be approved by the City Council. The vote passed.

162. On April 10, 2019, the City Council approved the ordinances that create the Cortland and Chicago River TIF District with 32 yes votes, 13 no votes, 1 recusal, and 3 abstentions.⁷⁶

I. The Redevelopment Agreement and Future TIF Spending

163. On April 10, 2019, the City Council approved a Redevelopment Agreement naming Sterling Bay's subsidiary companies as the developer with 32 yes votes, 13 no votes, 1 recusal, and 3 abstentions.⁷⁷

164. This Redevelopment Agreement sets the contractual terms between the companies that are developing the infrastructure projects that were identified in the Lincoln Yards Master Plan and the Lincoln Yards Planned Development approved by the Plan Commission. These particular infrastructure plans include bridges, an extension of the 606 trail, and streets projects.

165. Sterling Bay will begin constructing the infrastructure projects projected to cost the City \$487.3 million (plus financing and interest costs) and will be compensated through the TIF District funds as outlined in the Redevelopment Agreement.

⁷⁵ Press Release, Lightfoot statement in advance of vote on Lincoln Yards, the 78, (Apr. 10, 2019), <https://twitter.com/blockclubchi/status/1116030137261334530?s=21>.

⁷⁶ Only 49 votes were possible due to Alderman Willie Cochran's resignation in March 2019.

⁷⁷ *See id.*

166. The infrastructure projects were designed specifically for the Lincoln Yards development to alleviate the traffic issues caused by the development itself.

J. The Cortland and Chicago River Redevelopment Project Area Does Not Satisfy the But-For Test as Required Under Illinois State Law

167. The Cortland and Chicago River Redevelopment Project fails the but-for test required under TIARA for the designation of a TIF District. Therefore, the City of Chicago's adoption of a redevelopment plan for the area and creation of a TIF District violates TIARA.

168. According to a Final Report released by the Illinois TIF Reform Task Force in 2018, attached hereto as Exhibit J, areas experiencing "natural economic expansion" would not satisfy the but-for test for the creation of a TIF District: "[g]overnments providing TIF project subsidies to businesses located in a growth corridor experiencing natural economic expansion may be wasting dollars if the businesses would have located and prospered in that area anyway – with or without subsidies. Such TIFs fail the 'but for' test."

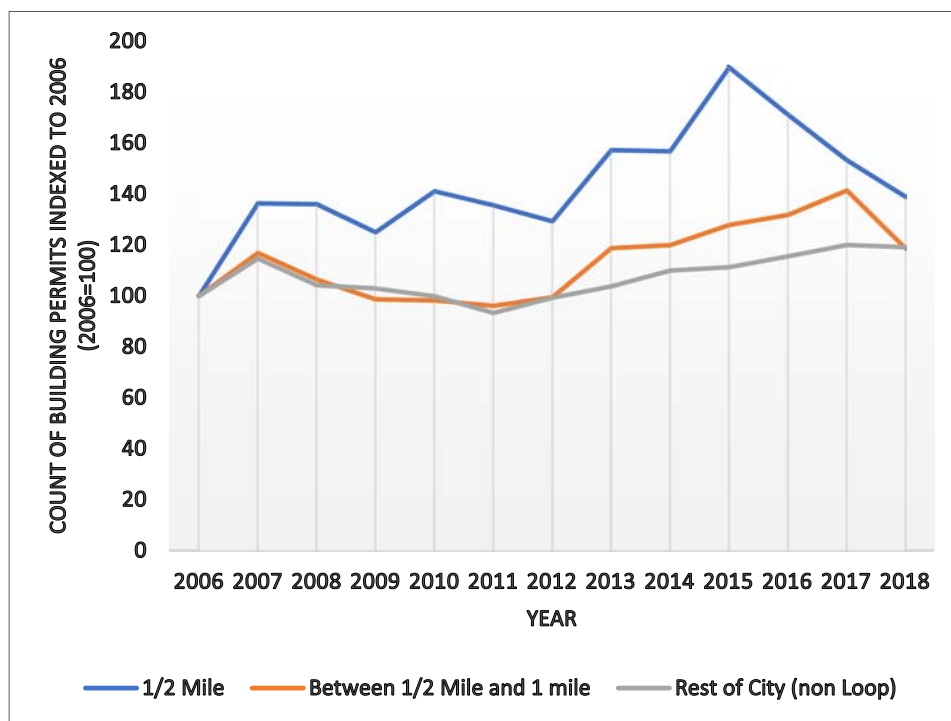
169. The Cortland and Chicago River Redevelopment Project is an area that is reasonably anticipated to develop and see natural growth through private development without the TIF District and its redevelopment plan. This TIF District is in an attractive affluent location, is highly visible, contains highly valuable land, and is already a well-capitalized real estate project without the use of TIF funding.

170. The Cortland and Chicago River Redevelopment Project is located along one of the city's greatest assets, the Chicago River, and between an economically growing community (Logan Square) and affluent communities (Bucktown, Lincoln Park, and Wicker Park). The area outside the TIF District boundaries has seen significant development over the past decades.

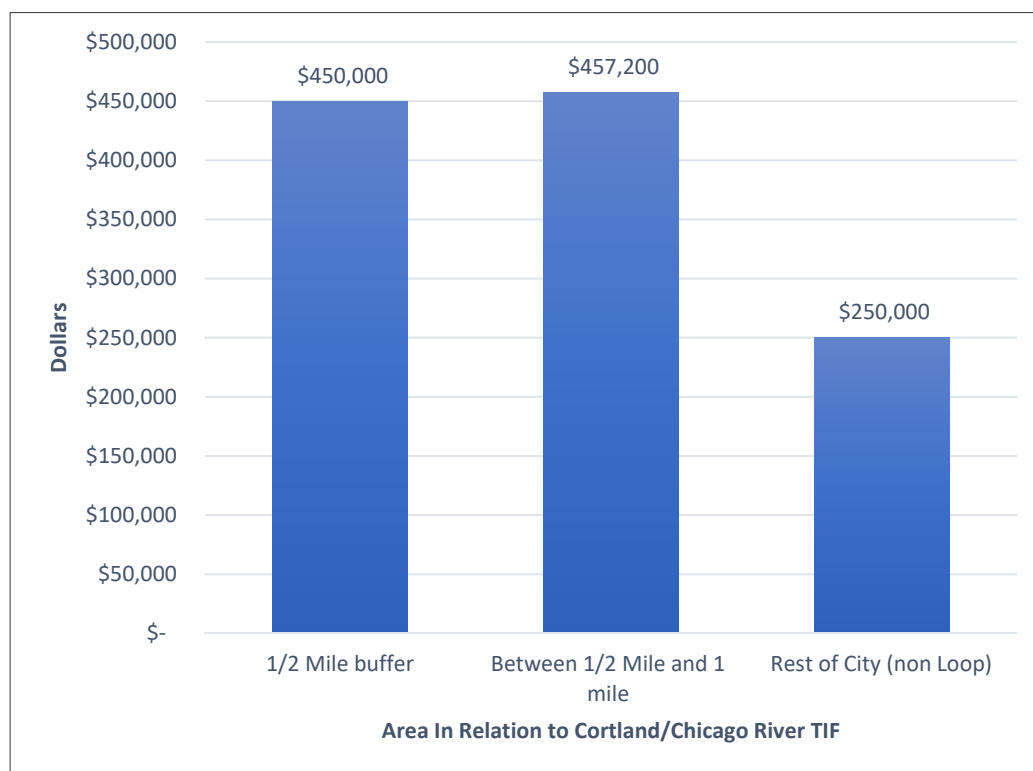
171. Natural economic expansion is occurring in the area in and immediately surrounding the Cortland and Chicago River Redevelopment Project. Building permit activity for

the area within a half-mile radius of the TIF District shows that investments in the built environment are up, relative to the rest of the city. Figure 5 below shows the change in building permit activity in the Cortland and Chicago River Redevelopment Project and the surrounding areas since 2006. It also indicates that more building permits, relative to 2006, were issued closer to the TIF District than in the surrounding areas.

Figure 5: Total Building Permit Activity (indexed to 2006), 2006-2018



172. The new construction in the area immediately surrounding the Cortland and Chicago River TIF District also shows higher cost for construction than the rest of the city. Figure 6 below compares the median cost of building permits for new construction in the area immediately surrounding the TIF District with the rest of the City.

Figure 6: Median Estimated Value of Building Permits for New Construction, 2006-2019

173. Increased building activity and increased value of construction shows an area that is currently seeing natural economic expansion. The value of the building permits shows an area that is attractive enough for higher levels of investment in new construction than the rest of the city. An area with such qualities cannot be said that it would not be reasonably anticipated to be developed and therefore does not satisfy the requirements for the but-for test under TIARA.

174. Some of the many reasons for this growth and development in this highly visible and affluent community are captured by Sterling Bay's own words. Sterling Bay proposed the site as Amazon's HQ2, highlighting the importance of its connection to the communities surrounding Lincoln Yards. The proposal stated: "Lincoln Yards connects Bucktown and Lincoln Park, two of the city's most iconic neighborhoods. Lincoln Yards is surrounded by arts and culture, renowned educational institutions and the neighborhood parks of Bucktown and

Lincoln Park.”⁷⁸ It further described Lincoln Park as Chicago’s “most refined neighborhood”⁷⁹ that is “steps away from activated retail and vibrant restaurants.”⁸⁰

175. The land values for the improved areas (land with buildings), based on EAV, have been rising in the Cortland and Chicago River TIF District at a rate higher than the rest of the city. In 2016, the EAVs for the improved land in the TIF District rose 9.3 percent over the previous year, compared to 4.3 percent for the city as a whole.⁸¹ In 2017, the EAVs for the improved land in the TIF District rose 7.9 percent, compared to 3.7 percent for the city as a whole.

176. Coinciding with the rising EAVs on the land is the land grab that Sterling Bay, its subsidiaries, and affiliates undertook to acquire as much of the land as possible. Since at least 2014, Sterling Bay acquired multiple parcels of land, constituting the majority of the TIF District. This land was acquired prior to any official action taken by the City to create a TIF District or provide any TIF funds and prior to any ability for the City to guarantee TIF funds being available for the land.

177. Prior to any promise of TIF funds, Sterling Bay spent a significant amount of money in acquiring land, including purchasing land from the City. In 2017, Sterling Bay purchased an 18-acre lot at 1685 North Throop Street from the City for \$106 million. This land was marketed across the globe, according to the firm that handled the sale. There were competing offers for the sale, with Sterling Bay being awarded the sale. The firm handling the

⁷⁸ Amazon Pitch, Ex. C, at 15.

⁷⁹ *Id.* at 19.

⁸⁰ *Id.* at 21.

⁸¹ See Ex. F, Cortland and Chicago River Tax Increment Financing Eligibility Report, attached as Exhibit 2, at 18.

sale reported to a local media outlet that they advised the City to accept Sterling Bay's offer because it was "an above market offer able to close within the year."⁸²

178. Upon acquiring additional land throughout the TIF District, Sterling Bay began planning mega-development uses for the so-called "blank slate." These plans included attracting private capital to support the developments prior to any formal proposal or approval of a TIF District. They were so successful in attracting private capital to their ideas that, in its pitch to bring Amazon's HQ2 to the site, Sterling Bay called Lincoln Yards "the best capitalized site in Chicago."⁸³

179. In fact, Sterling Bay was so confident in its interest and ability to develop the site, that it stated that "Lincoln Yards has the strongest financial support in real estate, and development is already underway."⁸⁴ This statement is not consistent with the idea that any private development would not reasonably be anticipated to occur at the site.

180. Removing the PMD restrictions greatly expands the types of developments that could occur. Such a land use change provides a significant benefit to the owner of the land.

181. Because of the previous restrictions of the PMD, Sterling Bay is the first company to be in a position to develop the land.

182. TIARA's but-for requirement is not about whether a particular development or comprehensive plan, such as the North Branch Framework, would be expected to occur or be financially feasible without the redevelopment plan. Rather, TIARA's requirement is about whether any private development could be reasonably anticipated. The City may choose to

⁸² Ted Cox, *Sterling Bay Purchase of City Lot Cheered by Community*, DNAinfo, Sept. 29, 2017, <https://www.dnainfo.com/chicago/20170929/lincoln-park/fleet-management-lot-sale-sterling-bay-north-branch-industrial-corridor-river-parkland/>.

⁸³ Amazon Pitch, Ex. C, at 44.

⁸⁴ *Id.*

create a comprehensive plan for the region which includes a particular redevelopment project. It may not, however, justify TIF spending solely because development pursuant to that comprehensive plan would not occur as designed without TIF funding. If an area would be reasonably anticipated to develop in alternative ways, a redevelopment plan to create a TIF District may not be created.

183. By recommending approval of the Cortland and Chicago River Redevelopment Project Area, the City did not make the appropriate conclusion that the area would not be reasonably anticipated to develop, and failed to adequately address whether or not the area would be reasonably anticipated to develop in the Cortland and Chicago River TIF Redevelopment Plan. In both the Cortland and Chicago River TIF Redevelopment Plan and its attached Eligibility Report, the City did not support the conclusion that the area would not be reasonably anticipated to be developed in a manner that meets the requirements of TIARA.

184. The Cortland and Chicago River Redevelopment Project Area is nestled among some of the most attractive areas of Chicago for developers. The area surrounding it is affluent and has seen significant development in the last several years. With the removal of the restrictive zoning of the PMD, this area would clearly see private development. The Cortland and Chicago River Redevelopment Project Area therefore fails the but-for test and does not comply with the requirements for designation of a TIF District under TIARA. The City improperly adopted Tax Increment Allocation Financing for the Cortland and Chicago River Redevelopment Project Area.

K. The Cortland and Chicago River TIF District Does Not Satisfy the Requirements for a “Blighted” Area as Required Under Illinois State Law

185. The Cortland and Chicago River Redevelopment Project Area does not meet the requirements for a “blighted area” under TIARA.

186. Under TIARA, a redevelopment project area must meet a number of requirements relating to blight. Areas which contain improved land must display five of the blighting characteristics clearly present within the intent of the statute and reasonably distributed throughout the improved part of the area. 65 ILCS 5/11-74.4-3(a). The Cortland and Chicago River Redevelopment Project Area is based on an incorrect conclusion about one of the blighting factors upon which it relies and the area therefore does not comply with the intent of TIARA.

187. The Cortland and Chicago River Redevelopment Project Area was approved as a redevelopment project area based on a finding that the improved land in the area met the following five factors: (1) obsolescence; (2) deterioration; (3) excessive land coverage and overcrowding of structures; (4) inadequate utilities; and (5) lagging equalized assessed values (the “EAV test”). *See* Ex. F.

188. The EAV test requires looks at the previous five years of EAV in the redevelopment project area. It requires that in three of those past five years, the total EAV for the improved land is either (a) declining or (b) increasing at a rate less than the balance of the municipality.⁸⁵ The EAV test requires using the previous five-year period for which data is available. 65 ILCS 5/11-74.4-3(a)(1)(M).

189. The Cortland and Chicago River Eligibility Report found that this factor was present. Figure 7 below shows the finding regarding this factor:⁸⁶

⁸⁵ The EAV test could also be met based on the EAV increasing at an annual rate less than the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

⁸⁶ *See* Ex. F, Cortland and Chicago River Tax Increment Financing Eligibility Report, attached as Exhibit 2, at 16.

Figure 7: EAV Finding from Cortland and Chicago River Eligibility Study

Year	Total EAV of City of Chicago, minus Improved Area EAV	Percent Change	Total EAV – Improved Area	Percent Change	Area growing at a rate less than the City?
2012	65,190,718,558		59,668,709		
2013	62,313,941,719	-4.4%	56,263,369	-5.7%	YES
2014	64,857,230,931	4.1%	56,542,840	0.5%	YES
2015	70,902,119,024	9.3%	61,169,944	8.2%	YES
2016	73,949,620,929	4.3%	66,885,422	9.3%	NO
2017	76,693,153,337	3.7%	72,149,199	7.9%	NO

2012 to 2017 is the most recent five year period for which data is available for the Project Area and the City as a whole

Percent Change reflects the annual growth in EAV from the prior year (e.g. 4.1% change in Total EAV of City of Chicago for Year 2014 represents the growth in EAV from 2013 to 2014)

190. Figure 7 above shows that in 2016 and 2017, the land values for the improved areas, based on EAV, have risen at over double the rate of the rest of the City. Over the five-year period from 2012 to 2017, the EAVs for the improved land in the district rose 20.9 percent, compared with the City’s increase of 17.6 percent. However, because for three of those five years the area’s EAVs for that land lagged behind the City’s, the City considered this to be a qualifying “blighting factor.”

191. On information and belief, when the Cortland and Chicago River Redevelopment Project Area was approved on April 10, 2019, the 2018 EAV data was available and should have been used in the EAV Test.

192. If the 2018 data had been used, it would show that the 2018 EAV for the improved land in the TIF District would have grown at a greater rate than the rest of the city for three of the past five years and therefore would not qualify under the EAV Test. If the 2018 data had been used, the area would not have qualified as a blighted area under TIARA.

193. Additionally, the EAVs prior to the removal of the PMD restrictions were likely artificially deflated because of the continued PMD designation after it was no longer appropriate for the potential uses of the land.

194. Finding that the Cortland and Chicago River Redevelopment Project Area is blighted is done in a manner that is inconsistent with the intent of TIARA and is not permitted under the statute.

195. TIARA states that “as a result of the existence of blighted areas and areas requiring conservation, there is an excessive and disproportionate expenditure of public funds, inadequate public and private investment, unmarketability of property, growth in delinquencies and crime, and housing and zoning law violations in such areas together with an abnormal exodus of families and businesses so that the decline of these areas impairs the value of private investments and threatens the sound growth and the tax base of taxing districts in such areas, and threatens the health, safety, morals, and welfare of the public.” 65 ILCS 5/11-74.4-2(a).

196. There is no evidence that the Cortland and Chicago River Redevelopment Project Area is contributing to any of these outcomes identified in TIARA. After the removal of the PMD designation, the land has become extremely marketable, has seen significant private investment, and is reasonably anticipated to see private development.

197. Designating a TIF District where the land values are this high and where there is a history of purchases by a for-profit developer seeking to create a multi-billion-dollar private development undermines TIARA’s intent to address the problems created by blighted areas. In this instance, the area does not exhibit the characteristics of the blighted areas that TIARA is intended to address.

198. The City has not properly concluded that the improved land in the Cortland and Chicago River Redevelopment Project Area qualifies as a blighted area. The City relied on the EAVs from an incorrect year to find that the EAV test was met and improperly adopted the TIF designation for the Cortland and Chicago River Redevelopment Project Area in violation of the clear intent of TIARA.

L. The City of Chicago's Administration of the TIF System Has a Disparate Impact on African American and Hispanic Taxpayers

199. The City of Chicago is administering the TIF system such that TIF Districts are being created and increased public and private investment is occurring within current TIF Districts in affluent, majority-White areas of the city at the expense of majority-African American and majority-Hispanic areas of the city.

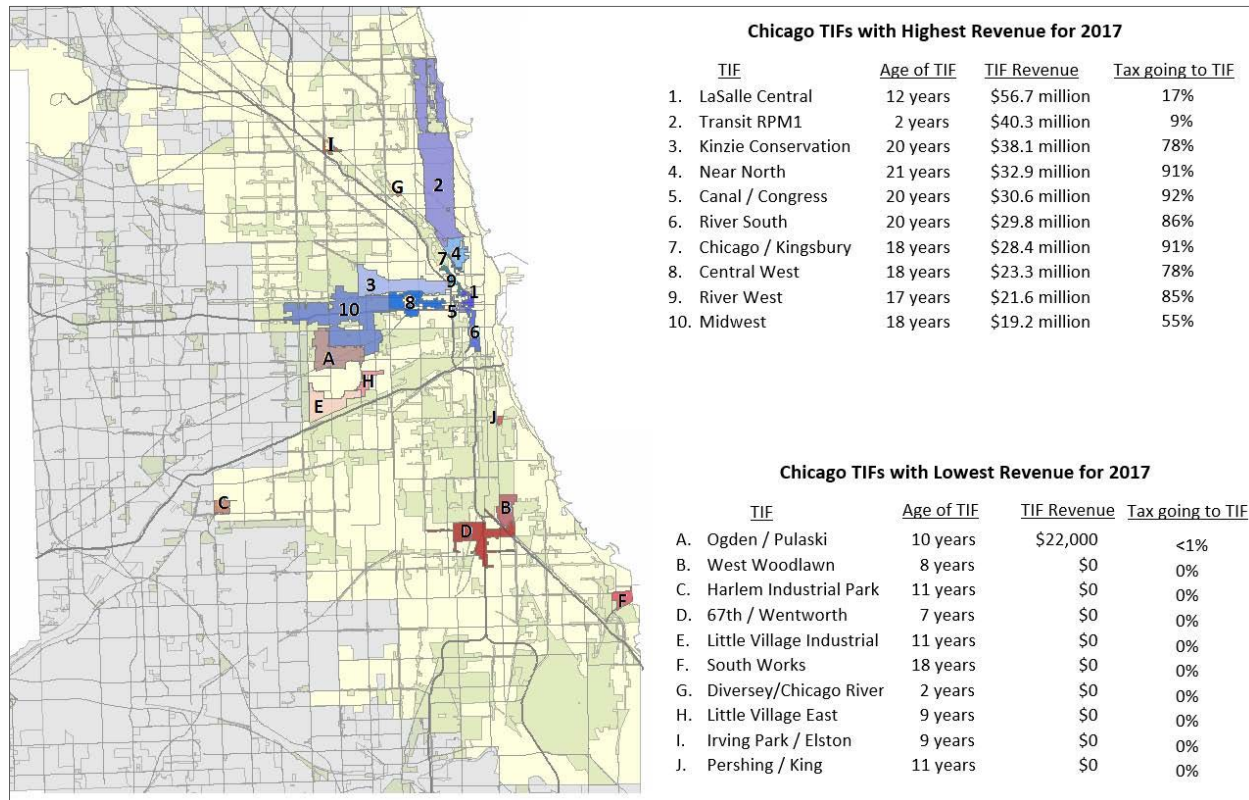
200. While as a technical matter, TIF Districts are located in different geographic areas of the city, the amount of money that is being generated and spent in TIF Districts is concentrated in areas of the city that are majority-White.

201. Providing public investment and subsidies in affluent, majority-White areas that do not satisfy the statutory requirements of TIARA undermines development and investment into low income, majority-African American and majority-Hispanic communities truly in need of public subsidies through TIF.

202. In 2017, as shown in Figure 8 below, all 10 TIF Districts in the city that generated the most revenue in 2017, which (other than the Transit TIF) totaled \$280.6 million, are located in the West, Northwest, North, or Central regions, which are comprised of majority-White census tracts.⁸⁷

⁸⁷ See Cook County TIFs bring in a record \$1 Billion according to Clerk Orr.

Figure 8: Chicago TIFs with Highest and Lowest Revenue for 2017⁸⁸



203. The LaSalle Central TIF District, located downtown in the Loop, generated \$56.7 million in revenue in 2017.

204. In contrast, the majority of the 10 TIF Districts in Chicago that generated the least or no revenue that year are located on the Far South, South, Southwest, and West regions, which are comprised of majority-African American and majority-Hispanic census tracts.⁸⁹

205. Nine TIF Districts generated no incremental revenue in 2017, and eight of the nine TIF Districts are located on the South or West sides of Chicago.⁹⁰

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ The remaining TIF District, the Diversey and Chicago River TIF, was designated in 2016 and has just begun construction on a private economic development project at the former site of a Chicago Housing Authority project.

206. The Cortland and Chicago River TIF District is located in the city's Second Ward between three of the most affluent areas of the city – Bucktown, Wicker Park, and Lincoln Park – and where the population within a half-mile radius of the District is nearly 80 percent non-Hispanic White.

207. In contrast, the city's population is approximately 32 percent non-Hispanic White, 30 percent African American, and 29 percent Hispanic.⁹¹

208. The City's commitment to pay up to a total of \$1.3 billion of taxpayer funds for redevelopment project costs in the Cortland and Chicago River TIF District, a district that fails to meet the statutory blight and but-for requirements, is money that otherwise would have gone to the general tax base and allocated throughout the city.

209. The tax rate for Chicago residents likely will increase as a result of the creation of the Cortland and Chicago River TIF District and has increased as a result of the City's over-designation of TIF Districts in predominantly White census tracts that have failed to meet the but-for test.

210. Chicago residents, however, will not all receive benefits from the Cortland and Chicago River TIF District.

211. The City's focus on the creation of TIF Districts in areas that are majority-White and have, as a whole, failed the but-for test have a disparate impact on areas that are majority-African American and majority-Hispanic because such areas are not receiving the same type of public and private investment that is associated with TIF District creation and taxpayers are bearing the costs of redevelopment costs that the City is reimbursing through the use of TIF funds.

⁹¹ U.S. Census, QuickFacts, Chicago city, Illinois, Population estimates, July 1, 2018, <https://www.census.gov/quickfacts/chicagocityillinois>.

212. As the City's failure to implement the recommendations made by its own reform panel regarding the TIF system demonstrates, the City's policy of over-designating TIF Districts in predominantly White census tracts is not necessary to serve a substantial, legitimate, nondiscriminatory interest.

Count I
Violation of the Illinois Civil Rights Act
(740 ILCS 23/5)

213. Plaintiffs repeat and re-allege all preceding paragraphs.

214. The City of Chicago's administration of the TIF system and the creation of the Cortland and Chicago River TIF District violate the Illinois Civil Rights Act of 2003, which prohibits any "unit of State, county, or local government" from (1) "utiliz[ing] criteria or methods of administration that have the effect of subjecting" property owners "to discrimination because of their race, color, [or] national origin," and (2) "exclud[ing] a person from participation in, deny a person the benefits of, or subject a person to discrimination under any program or activity on the grounds of that person's race, color, national origin, or gender." 740 ILCS 23/5(a)(1) and (2).

215. The City of Chicago's method of administering the TIF system through creation of TIF Districts and corresponding economic investment through TIF-generated revenue in areas that are majority-White and that do not satisfy the blighting and but-for requirements has disproportionately harmed majority-African American and Hispanic areas that have failed to receive commensurate economic investment.

216. Under the Illinois Civil Rights Act of 2003, the court has the authority to "grant as relief any permanent or preliminary negative or mandatory injunction, temporary restraining order, or other order." 740 ILCS 23/5.

Count II
Violation of Tax Increment Allocation Redevelopment Act
(65 ILCS 5/11-74.4(n))

217. Plaintiffs repeat and re-allege all preceding paragraphs.

218. The Tax Increment Allocation Redevelopment Act requires that municipalities may only adopt a redevelopment plan which “the municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.” 65 ILCS 5/11-74.4-3(n).

219. The City’s adoption of the Cortland and Chicago River Redevelopment Plan violates TIARA because it fails to satisfy the but-for test since the area within the TIF District is reasonably anticipated to be developed.

Count III
Violation of Tax Increment Allocation Redevelopment Act
(65 ILCS 5/11-74.4(a))

220. Plaintiffs repeat and re-allege all preceding paragraphs.

221. The Tax Increment Allocation Redevelopment Act requires that in order to designate a redevelopment project area as a “blighted area” the improved land within the area must meet at least five eligible blighting factors, which must be clearly present within the intent of the Act. 65 ILCS 5/11-74.4-3(n).

222. The City’s designation of the Cortland and Chicago River Redevelopment Project Area violates TIARA because it fails to satisfy the minimum blighting factors for the improved land within the area and is inconsistent with the intent of TIARA.

Prayer for Relief

WHEREFORE, Plaintiffs request that this Court:

A. Declare that Defendant City of Chicago violated: (i) the Illinois Civil Rights Act and (ii) the Tax Increment Allocation Redevelopment Act in the administration of its Tax Increment Financing system.

B. Enter an order that declares the ordinances adopting the Cortland and Chicago River Redevelopment Project Area, the Cortland and Chicago River Redevelopment Plan, and the allocation of the Tax Increment Allocation Financing for the Cortland and Chicago River Redevelopment Project Area invalid and that temporarily enjoins any activity that would further the Redevelopment Plan for the Cortland and Chicago River TIF District;

C. Enter an order enjoining the City of Chicago from the designation of new Tax Increment Financing districts until reforms are made to ensure compliance with the Tax Increment Allocation Redevelopment Act and eliminate its discriminatory effects under the Illinois Civil Rights Act;

D. Award all available monetary damages to plaintiffs;

E. Order the City of Chicago to pay plaintiffs' reasonable attorney's fees and expenses, including expert costs; and

F. Order all other appropriate relief as the interests of justice may require.

Dated: April 17, 2019

Respectfully submitted,

/s/ Aneel L. Chablani
Aneel L. Chablani

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/s/ Jon Greenbaum
Jon Greenbaum

Jon Greenbaum (pro hac vice application
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