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Subject: TIF Summary list for tomorrow

Date: December 3, 2023 at 6:14 PM

To: Alphonse Talarico contact@lawofficeofalphonsetalarico.com, Paul Dulberg Paul_Dulberg@comcast.net

TK

A 2 page summary of TIF arguments for Mr Talerico is attached

TIF summary
arguments.pdf

199 KB

SUMMARY OF TIF ARGUMENT FOR MR TALERICO

VILLAGE ARGUMENT (in Village MTD):

10. Here, Plaintiffs seek relief from this Court alleging that the Village has not established the requisite public use to effectuate a taking, or otherwise exercise eminent domain authority, pursuant to the Illinois Constitution.

11. However, Plaintiffs make no allegations that the Village Defendants have in any way taken any action to exercise eminent domain over the Plaintiffs' property.

15. Simply put, the Plaintiffs have set forth no claim that the Village is attempting to take any property owned or controlled by the Plaintiffs.

KOST RESPONSE (in reply):

5. The Kost Plaintiffs have pled the Village Defendants (and the S.B. Friedman Defendants) violations of the procedures and requirements contained in the Tax Increment Allocation Redevelopment Act, throughout Plaintiffs' Complaint generally and specifically in ¶24(b) and ¶46-¶49.

6. Additionally, the Kost Plaintiffs state that within the ambience of the Fifth Amendment to the U.S. Constitution "due process" and "public use" sections were violated by the Village Defendants (and the S.B. Friedman Defendants) as alleged within Plaintiff's Complaint.

9. The Kost Plaintiffs further state that they have satisfied the requirements for injunctive relief as follows:

a) their right to continue ownership in their home which is now threatened by an eminent domain action based upon an illegally established TIF District;

b) they will suffer irreparable harm as being part of the TIF District **because inclusion within a legally enacted TIF District establishes the condemnor's prima facie case, shifting the burden of proof from the condemnor (the Village Defendants) to the property owner (the Kost Plaintiffs) thus changing the evidentiary standard for contesting the legality of the establishment of the TIF district from the preponderance of the evidence in this matter to clear and convincing evidence in opposing any eminent domain action subsequently taken by the Village Defendants.**

VILLAGE REPLIED (in surreply):

1. Importantly, the Village has not instituted any eminent domain action against the Plaintiffs and their properties.

KOST PROPOSES A COMPROMISE:

At the April 19, 2022 public meeting board members stated that they have no intention of exercising eminent

domain over the plaintiff's property and the other 4 homes.

If the plaintiff can have a written and binding assurance the Village won't institute any eminent domain action against us for a reasonable amount of time (as the board members claimed on April 19, 2022) the plaintiffs will agree to drop their objection to being located in the TIF district.

If the village CANNOT give written assurance to what board members stated on April, 19, 2022, then this shows the fear the plaintiffs have is valid: That the TIF district can be used to shift the burden of proof from the condemnor (the Village Defendants) to the property owner (the Kost Plaintiffs) in an eminent domain action subsequently taken by the Village Defendants..

This means there is a valid reason for the plaintiff to object to the illegal actions (described in complaint) the Village took to place the plaintiff's property in the TIF district.

S.B. FRIEDMAN MTD ARGUMENT (from MTD):

Here, Plaintiffs allege that the Village, in approving a TIF District, violated the Public Use Clause of the Illinois Constitution. See Compl., ¶ 46. **Nowhere, however, do the Plaintiffs allege that the SBF Defendants had any role in approving the TIF District.** Plaintiffs only allegations related to the SBF Defendants, is that S.B. Friedman & Company prepared a report for the Village regarding the proposed TIF district, nothing more.

KOST RESPONSE TO S.B. FRIEDMAN (from response):

7. The April 19, 2022 Board meeting showed that S.B Friedman representative Geoffery Dickenson could say *whatever he wanted* [emphasis added] and the Mayor would agree (while Plaintiff was not allowed to speak),

8. The dependency that Village of Mount Prospect Officials had on information provided by S.B. Friedman can be seen in these examples:

The highest-ranking supervisors on TIF couldn't point out problems with the 5 homes without referring to a private report by S.B. Friedman. When Plaintiff asked to see the private report, he was told that the Village of Mount Prospect supervisors did not have it and would have to obtain it from S. B. Friedman. When the Plaintiff asked the supervisor to accompany him to the property to point out the problems himself, the supervisor refused to do so.

Village trustees were completely unable or unwilling to question or fact-check the statement "Esri has the maps that it has". The interaction demonstrates how whatever Geoffery Dickenson claimed to be true was accepted by Village trustees (while the plaintiff was not allowed to speak).

The way S.B. Friedman representative Geoffery Dickenson and Mayor Paul Wm Hoeffert alone defined the term "below code" in a highly simplistic, improvisational way without any reference to code, law, or statute (or any interest in doing so, while the plaintiff was not allowed to speak)

All Village of Mount Prospect trustees simply deferred [emphasis added] to whatever S.B. Friedman representative Goeffery Dickenson said at the April 19, 2022 meeting