Tax Increment Financing, the Kansas City Experience
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Craig Scranton, a principal with Kansas City-based architecture firm BNIM, considered the 43,000-square-foot warehouse at 1640 Baltimore Ave. in the Crossroads art district to be “one of the ugliest” in the area (Image 1). The architects at BNIM had a vision to transform the warehouse into a “beautiful example of high-performance integrated architecture.”

BNIM was looking to move from their temporary headquarters in the old TWA building—a block south of the site—into the redeveloped structure (Roberts, 2015).

The warehouse would be transformed into a “living” building that BNIM, the 2011 AIA National Architecture Firm Award winner, described as a “global laboratory for quality sustainable design.” The project would use new technologies and techniques,
including a greenhouse to help water management and a solar array for energy, passive water heating and cooling, and shade (Image 2). BNIM would occupy the top two floors of the building, while the ground floor would be used for retail and office space (Messner, 2016).

Developer and philanthropist Shirley Helzberg had acquired the warehouse in 2005 for $1.8 million. Helzberg’s development partnership, Walnut Creek Ranch LLC, was planning to redevelop the warehouse for $13.2 million. To offset these costs, Helzberg asked the Tax Increment Financing Commission of Kansas City for a tax cut then valued at $2.46 million, but up to $5.9 million could be approved (Roberts, 2015). This money would not be coming from the city’s coffers, but would rather be forgone property tax by the city over the next 23 years (Roberts, 2016).

However, the request for tax increment financing (TIF) to fund the redevelopment project became controversial. A group of Kansas City school district parents and civil rights activists claimed the TIF would divert potential future tax revenue away from the school district. The activists gathered enough signatures on a petition to block a ballot initiative on the TIF approval, and BNIM canceled the project.

In this paper I’ll give an overview of Tax Increment Financing, briefly discuss the history and intent of the incentive, then focus on how TIF has been used in the Kansas City area, and specifically focus on the aborted BNIM project in the Crossroads art district in downtown Kansas City, Missouri.
Tax Increment Financing, an Overview

Tax Increment Financing is an incentive for developing public improvement projects or redeveloping a blighted area, often with the intention of economic development. TIF is granted to developers who redevelop generally blighted properties in distressed, underdeveloped or underutilized parts of a jurisdiction where development might not otherwise occur (Kansas City Star, 2016). The underlying assumption is development would not have occurred without some sort of tax break (Merriman, 2002). But TIF may also be an option for municipalities that don’t have money to spend (Luce, 2003). The first TIF was used in California in 1952, and the incentive has since been used in all 50 states and Canada. However, not all states have the same requirements for granting TIF. Kentucky, for example, requires no finding of blight to require a TIF. But Kentucky mandates the exclusion of school district revenues from the TIF. Minnesota, in contrast, requires quantitative evidence of blight before allowing for a TIF. But Minnesota does not even require excess TIF revenue to be returned to the overlying government (Merriman).

TIF acts as a cut on property taxes, applied to the “increment” in taxes attributable to the higher property value after redevelopment. In practice this means dividing property taxes into two parts, the first part is the property tax before the redevelopment occurred, the second is the “increment” increase in property tax after
the development, which is where the tax cut occurs. The incentives often have a lifespan of 20 years or longer (Rubin, 2009). TIFs are popular with governments because they are tax expenditures—they require no out-of-pocket money from the local government, but rather a decision to forego future revenue. Some governments may not see this as a loss if they believe there would have been no increment in the first place had no redevelopment occurred, so TIF is seen as low-risk to governments, compared to other forms of revenue generation such as issuing bonds for development (Merriman). TIF also has no strings attached, unlike intergovernmental funding sources (Luce).

TIF can be controversial, however, because it is discretionary. It is not automatically given simply because an area meets the specifications in the state statutes. A single-purpose TIF entity makes the decision about whether to approve the tax incentive, and overlying special purpose governments, such as school districts or libraries, have little or no input in that decision, even though it affects their revenue. In most states, increment tax revenue that exceeds the TIF is returned to the government, rather than to overlying tax jurisdictions (eg. school districts), which is a reason local governments may have a self-serving incentive to grant TIF. Nine states have a form of tax increment financing in which the tax increment is applied to sales tax, known as sales tax increment financing, appropriately shortened to STIF, although no irony was intended (Merriman).

TIF has certainly been used in the spirit intended in many cases and has spurred
redevelopment in blighted areas. Craig L. Johnson of Indiana University, Bloomington, said that TIF:

“(H)as become a useful, effective tool for local governments to finance capital projects in support of economic (re)development… TIF projects have been successful at spurring the redevelopment of blighted areas in numerous instances in many states… TIF has also been successful at redeveloping residential property, building affordable housing… revitalization of low- and moderate-income neighborhoods [and] redeveloping contaminated sites” (quoted in Merriman).

In practice, however, critics claim the incentive has been abused. The term “blight” has a nebulous interpretation, and TIF has been approved in areas that are not blighted, or would have been developed without any tax incentive. Municipalities typically use TIF to attract businesses rather than remedy blight, which tends to attract “rent seekers” rather than genuinely correct market failures. If development would have occurred anyway without the TIF, then the expenditure has not passed the “but for” test (Merriman). Luce (2003) notes this “but for” requirement is vague and very difficult to verify or enforce, so states must offer more quantitative requirements for TIF. The “but for” clause is often only interpreted as a restriction on using a TIF to lure a business away from another jurisdiction. The shortcomings of the “but for” clause is the primary enabler of TIF abuse in Missouri, which will be discussed further below.

One might conclude from the contradictions in this section that TIF may be a
useful tool for redevelopment, but that doesn’t necessarily translate to the expenditure serving the public good.

**TIF and Missouri**

While many states require TIF funds to be used to develop blighted areas, brownfields or targeted industries, Missouri allows localities to designate TIF districts in areas that meet only one of three designations: blight, conservation or economic development. These three purposes are fairly typical, but the catch-all phrase “economics development” acts as a loophole that enables TIF to be used for non-standard purposes (Luce).

The statutory definition of blight in Missouri is “an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use” (MO. REV. STAT. 99.805.1, quoted in Luce). This broad definition leaves ample room for interpretation.
Luce (2003) discusses three flaws of the “but for” clause, mentioned above as meaning development would not have occurred but for the TIF. The determination of “but for” is strictly local. A development may have occurred in another part of the region without the TIF. The “but for” standard is vague, and the hurdle to pass it is set very low. Also, TIF commissions are not required to consider concerns beyond their municipal boundaries. Since the writing of Luce’s article, Missouri law requires a “but for” test to be analyzed by a third-party to determine expected rates of return with or without incentives (Stafford, et al., 2016).

TIF has been used extensively in the Kansas City metro over the past two decades. The incentive was used for the downtown Power & Light District, Independence approved TIF for development near I-70 and M291. Prairie Village endorsed a plan to redevelop the Meadowbrook Golf and Country Club (Kansas City Star). Image 3 shows TIF districts in Kansas City. The map shows while TIF districts are concentrated in the center city, they are still found far flung in areas.
Luce’s discussion paper (2003) focuses primarily on Kansas City and St. Louis and their surrounding suburbs, as the majority of Missouri’s TIF districts can be found in these areas. He shows TIF in the Kansas City metropolitan area has been more consistent with the intent of the abatement than those in the St. Louis metropolitan area. According to Luce, four of six TIF cities in the KC area show a lower property tax base and five of six have a lower sales tax base than other areas that don’t use TIF. Further, half of the cities using TIF show comparatively high poverty rates. Four of the six were disadvantaged in at least three of the four dimensions measured for “at risk” areas, and those four places represented 96 percent of the TIF-captured tax base.

In contrast to the KC metro, the St. Louis area has a worse record of using TIF in the spirit intended. Only six of the 21 cities using TIF in the St. Louis area were disadvantaged in at least three of the four dimensions. In fact, five of the TIF cities had none of the “at risk” measures, and six were disadvantaged in only one dimension. In the St. Louis area, TIF has largely been used in affluent greenfield areas that would have developed without the incentive, therefore failing the “but for” clause (Luce).

One weakness of Luce’s paper, in my opinion, other than the fact that Missouri laws have been tweaked since it’s writing, is that it left out comparisons with the Kansas or Illinois sides of the Kansas City and St. Louis metropolitan areas, respectively. He may have thought those areas were beyond the scope of his paper because they dealt with non-Missouri TIF laws, but the fact that he didn’t even mention
these important cities of the anchors’ metropolitan zones seems to be a glaring oversight. What happens on the other side of state lines does impact Missouri’s two largest cities.

Not all developers in Missouri have seen the need to use TIF for redevelopment projects. Chris Payne, a local developer, has apparently made a moral justification for not using every handout available. He said:

“Everybody wants to make money. But he doesn’t have to make it above and beyond. He knows the importance of the other services that make everything work” (Martin, 2016).

Nicknamed by The Pitch “Monopoly Man,” not just because of the name of his company, Monopoly Acquisitions, but perhaps also by how he strategically acquires properties, he didn’t use TIF to develop a senior apartment building. In fact, he turned down a TIF when it was offered to him by the city of Raytown. He said, “I can’t take money from the school district and the fire department.” He recognized the need of those taxing jurisdictions to raise sufficient resources to function properly (Martin).

The notion that TIF hasn’t been used locally in the spirit intended has attracted vocal detractors in recent years. It was only a matter of time before one case became a lightning rod for the TIF controversy.
The BNIM Case

In 2005, developer and philanthropist Shirley Helzberg bought the abandoned warehouse at 1640 Baltimore Ave., where it has sat vacant ever since. Helzberg had been unable to find a tenant for 10 years, which had to do with the extensive gutting and updates needed to be made to the building to convert it to office use (Horsley, et al., 2016). BNIM, which was named Small Business of the Year by the Greater Kansas City Chamber of Commerce in 2015, was looking for a new headquarters as the lease on their current office in the old TWA Building would expire at the end of 2016. The architecture firm was to convert the warehouse into a “state-of-the-art environmental showcase” (Horsley, et al.). The project would have fallen in the W 17th Street TIF district (image 4), and BNIM asked for a TIF valued at $5.2 million (the exact amount varies depending on who reported and when).

Critics made up Kansas City school district parents and civil rights activists objected to the use of TIF in a rapidly developing area, and brought up a petition to block a ballot initiative to approve the TIF. In a letter sent to Jackson County Chief of
Staff Calvin Williford, the petitioners said: “From the beginning, the committee has been clear and consistent that our opposition to the project was not only financial, but due to the diversion of taxes to pay for renovation of a building located in a thriving neighborhood. In our view, if it can’t be done in the Crossroads without incentives, then it shouldn’t be done” (quoted in Vockrodt, 2016).

BNIM canceled plans to move forward with the project before the ballot initiative could go for a vote. The company said in a statement, “We did not anticipate our project becoming a lightning rod in a much larger incentives fight” (quoted in Horsley, et al.).

Critics of the subsidy have fallen into various camps. Some are ideologically against tax breaks in general. Others don’t flat-out reject TIF, but believe the abatement has been too generous and should be reined in. And some want the subsidy to only be used east of Troost Ave. (the historic racial dividing line in Kansas City), and object to all others (Stafford, et al.). The petitioners against the BNIM project appear to fall in the latter camp.

BNIM said in a statement, “In spite of a willingness on our part to make multiple revisions to the proposal, including one that would add millions to the KC public school system, petitioners were unwilling to compromise” (quoted in Horsley, et al.).

Mayor Sly James said of the canceled project, “Unfortunately this is a step in the wrong direction” (quoted in Horsley, et al.).

The petitioners said in a statement, “Our position has not changed and will not
change unless the project moves from the Crossroads to a truly blighted neighborhood” (quoted in Horsley, et al.).

I take the phrase “truly blighted neighborhood” to be code for “east of Troost,” given other statements by the petitioners (Horsley). While I’d agree the BNIM project was not the poster child for TIF, it was far from being one of the more egregious uses of TIF, such as the greenfield developments contributing to suburban sprawl in the St. Louis area. I remember driving a visitor to Kansas City through downtown and Crossroads on a Friday night back before the Power & Light District was built. The area was deserted and felt like something out of a zombie movie. My friend said, “This is downtown?” While the Crossroads district has certainly revitalized in the past decade, it still has some long-neglected properties. The fact the building at 1640 Baltimore has sat vacant for over a decade since Helzberg bought it seems to be evidence of the major updates needed, and given that BNIM wouldn’t do the updates without TIF seems to be evidence the project passed most of the requirement for the “but for” test (although since BNIM is looking elsewhere in the area, that could be a strike against “but for”).

Having conceded BNIM’s Crossroads project was not a perfect candidate for TIF, while not being a total abuse of it, I think the petitioners ended up hurting the schools in their refusal to compromise. They appear to disagree with any TIF used west of Troost in principle. While that may be a worthy principle to them, it was an expensive principle in the end. BNIM made a revision that would have added millions of dollars
to public schools. Had the petitioners been willing to compromise, even if they didn’t agree with the use of TIF in the Crossroads, they still could have come out ahead in the deal.

In Conclusion (Outcomes)

Whether TIF outcomes have been good or bad depends on where you’re standing. The Economic Development Corporation of Kansas City (EDCKC) sees TIF as a valuable tool for correcting blight. Their website (2016) says: “From the development community’s standpoint, TIF provides a greater incentive for economic development. There is potential for a greater revenue stream for development, and TIF may be used in blighted, conservation and economic development areas.” The EDCKC also appears to interpret the intention of TIF: “In the wake of the suburban migration of the 1950s and 1960s, many urban cores were left with reduced population and tax bases at the same time that development costs began to increase due to decaying infrastructure and the land clearance required to develop ‘Brownfield’ areas.”

While school districts may perceive TIF as detracting from their revenue, a TIF district may actually have a neutral or positive effect on school districts’ funding. States often take into consideration a school district’s tax base when distributing aid to local schools. Having a TIF area in a school district may encourage development in the city,
while not adding to the district’s tax base, and therefore not considered in the state’s calculations when allocating funds. At the time of the writing of Luce’s paper (2003), this additional funding amounted to a 7-percent increase in state aid for Kansas City. Of course, if the state is allocating less funding to school districts than in the past, then the school district might not see this as revenue neutral.

However, as Luce’s paper showed, Missouri law has enabled cities to abuse TIF, particularly in St. Louis, where it was used to develop suburban areas rather than blighted neighborhoods. When used in the spirit intended, TIF can spur redevelopment and rescue blighted neighborhoods. My research leads me to believe there is an ideological standpoint of whether TIF is good or bad, which is why granting TIF is often politically controversial.

Policy makers should be sensitive to the political environment and include all stakeholders. Overlooked stakeholders, such as school district parents and civil rights activists, may have veto power the developer and city didn’t consider. When TIF is abused, or has that perception, projects can be stalled or stonewalled by residents, as we saw in the BNIM case.

Sources


Luce, T. (2003). Reclaiming the intent: Tax increment financing in the Kansas City and St. Louis metropolitan areas. [discussion paper prepared for the Brookings Institution Center on Urban and Metropolitan Policy]


