

Colorado Board of Equalization Approves TIF Property Tax Changes

On Oct. 5, 2016, the Colorado Board of Equalization (BOE) approved changes proposed by the Property Tax Administrator that could affect tax increment throughout the state. The Property Tax Administrator's proposed changes pertain to Chapter 12, the tax increment section, of the Assessors Reference Library (ARL).

The ARL directs the assessors in every county how to allocate increases in value between the base and the increment. On behalf of our urban renewal and developer clients, we have submitted [voluminous comments](#), including a draft alternative set of revisions to Chapter 12, throughout the process since it began in August 2015.

Although we're pleased that the Property Tax Administrator (PTA) incorporated several of our suggested changes through the process, the fundamental flaw in the draft presented to the Board of Equalization remains. Rather than calculating the base, and concluding that any other increases in valuation should be attributed to increment, the PTA's approach calculates specific, measurable instances of increment, attributable to specific activities, such as construction and zoning and then "proportionally adjusts" any additional value between base and increment. Although this concept has incorrectly been part of Chapter 12 for several years, if these additional changes are incorporated into Chapter 12, and followed by assessors throughout the state, this will exacerbate the problem, and over time could result in less increment available to support urban renewal projects.

We've therefore testified against the proposed changes as they fail to address our fundamental concern that the ARL directs assessors to misallocate increases in property value during general assessment years. The ARL methodology, as written today and as proposed by the PTA, does not properly allocate all of the value attributable to the activities of the URA or DDA to increment as required by the Urban Renewal statute (31-25-101 et seq.) and the case law interpreting it. We asked the Board of Equalization to reject the proposed draft, and direct the PTA to engage in further outreach and work with stakeholders to come up with a consensus draft on the disputed issues. Our testimony lasted over an hour and included an extensive exchange with the PTA and her staff, who defended the ARL's methodology.

Ultimately, the board adopted the PTA's proposed changes on a vote of 4-1, with board member and Sen. Mark Sheffel dissenting. But the board also directed the PTA to address the concerns that we raised and provide recommendations to the BOE as to whether additional changes are required regarding allocation of base and increment, including a legal examination of what the law requires in that regard.

The PTA has proposed that these changes take effect as of Jan. 1, 2017. However, it appears that some additional legislative process remains before the changes become effective.

This document is intended to provide you with information regarding proposed changes to Chapter 12 of the Assessors Reference Library. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact one of the attorneys listed below or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

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