



Council Communication

Office of the City Manager

Date

September 11, 2006

Agenda Item No. 58
Roll Call No. 06-
Communication No. 06-567
Submitted by: Larry Hulse, Community
Development Director

AGENDA HEADING:

Approval of two late-filed tax abatement applications for 2004 for properties located at 5207 SE 31st Street and 2704 E. Titus Avenue and denial of request to back-date the applications as if the applications had been filed prior to February 1, 2005.

SYNOPSIS:

Recommend approval of tax abatement applications for the value added by improvements completed in 2004 to properties at 5207 SE 31st Street and 2704 E Titus Avenue. The applications are each for improvements to property within a designated abatement area, meet the requirements for the area, and were filed within the two-year grace period allowed by State Law.

Recommend denial of the applicant requests to “backdate” the applications so that abatement may be effective retroactively and applied to property taxes that have already been levied. Approval of this request would be contrary to the express provisions of Iowa Code §404.4.

FISCAL IMPACT:

Amount: Tax abatement upon improvements with a combined assessed value of \$399,400.

Funding Source: Taxes are generated in the first year from the land value, but the improvement value will be forthcoming when the \$399,400 comes on the tax rolls after abatement ends.

ADDITIONAL INFORMATION:

Applications for tax abatement are to be filed by February 1st following the calendar year in which the improvement is completed, or within a two-year grace period thereafter. The attached applications are for projects that were completed in 2004 and were filed within the two-year grace period allowed by State Law. These projects are in designated abatement areas and meet each area’s requirements. The City Council may approve the applications and the owners will receive the full abatement schedule, but the scheduled abatement will commence with the taxes to be paid in fiscal year 2008-2009.

The City cannot change or misrepresent the date the applications were actually filed. The City Council has previously asked Polk County to apply tax abatement retroactively only when there were extraordinary circumstances, such as when there is evidence the application was timely filed but lost by the City. In those circumstances Polk County has honored the City Council's request for retroactive application. However, the retroactive application of tax abatement is contrary to the provisions in Iowa Code §404.4, and should be reserved for extraordinary circumstances.

The applicants chose **Schedule 4B**. **Schedule 4B** is for qualified real estate in all areas of the City not included in other tax abatement schedules. The abatement lasts for five years. Qualified real estate assessed as residential, or assessed as commercial and consisting of three or more living quarters with at least 75% of the space used residentially, is eligible to receive an exemption from taxation on the actual value added by improvements. The exemption amount is 100% of the actual value added by the improvements.

PREVIOUS COUNCIL ACTION(S):

Date: March 6, 2006

Roll Call Number: 06-432

Action: Approving one tax abatement application for improvements made to 3430 South Union Street during 2005. Approval applied retroactively because the applicant's failure to timely file the application was due in part by a miss-communication by the City Staff to the applicant who does not speak English proficiently. ([Council Communication No. 06-117](#)) Moved by Brooks to adopt. Motion Carried 6-0. Absent: Hensley.

Date: February 20, 2006

Roll Call Number: 06-388

Action: Approving 435 tax abatement applications for improvements made to property during 2005. ([Council Communication No. 06-088](#)) Moved by Hensley to adopt. Motion Carried 6-1. Pass: Kiernan.

Date: February 20, 2006

Roll Call Number: 06-339

Action: Conditionally approving tax abatement application for 2120 E Army Post Rd. for improvements completed in 2005. Approval applied prospectively only. The applicant's failure to timely file the application was not due in any part to action or inaction by the City. ([Council Communication No. 06-083](#)) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

Date:

Roll Call Number:

Action:

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

The tax abatement program on new improvements will end on December 31, 2008, with an additional year to complete improvements commenced prior to December 31, 2008, under a valid permit. It is expected that the City Council will be asked to extend the tax abatement program. Any application for tax abatement timely filed and approved by the City Council will receive abatement for the number of years eligible and for which an application was submitted. It is anticipated that there will be numerous submittals of tax abatement applications on a yearly basis until the program ends.