



**Council
Communication**
Office of the City Manager

Date

September 25, 2006

Agenda Item No. 50A
Roll Call No. 06-
Communication No. 06-619
Submitted by: Larry Hulse, Community
Development Director

AGENDA HEADING:

Denial of request to retroactively apply the previously approved application for tax abatement for improvements to 2410 East 42nd Street completed in 2005.

SYNOPSIS:

The City has received an application for tax abatement upon the value added by improvements completed in 2005 to property at 2410 East 42nd Street, with a request that the application be applied retroactively to the property taxes already assessed. The City received the application for the improvements in July 2006. The application was approved in August 2006 and will be applied prospectively to the taxes due commencing in fiscal year 2008/09.

The staff recommends denial of the request for retroactive application of the tax abatement.

FISCAL IMPACT:

Amount: Tax abatement upon improvements with a combined assessed value of \$119,000.

Funding Source: Taxes are generated in the first year from the land value, but the improvement value will be forthcoming when the abated value of \$119,000 comes on the tax rolls.

ADDITIONAL INFORMATION:

The applicant contacted the City after it was discovered that the builder/developer/realtor did not file the application by February 1, 2006 due to an error on his part. The application was filed with the City on July 3, 2006 by the builder/developer/realtor. The builder/developer/realtor admits not filling the application on time due to his oversight.

The City cannot change or misrepresent the date the applications were actually received. 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 City Council has already approved an application for tax abatement upon the value of the improvements to 2410 East 42nd Street, to be effective with the taxes due in fiscal year 2008/09. Staff recommends denial of this request for retroactive application.

PREVIOUS COUNCIL ACTION(S):

Date: September 11, 2006

Roll Call Number: 06-1804

Action: Approving late filed tax abatement applications for improvements to 2704 E. Titus Avenue and 5207 SE 31st Street). Approval applied prospectively only. The applicants' failure to timely file the applications were not due in any part to action or inaction by the City. ([Council Communication No. 06-567](#)) Moved by Hensley to adopt, with the tax abatement to be applied prospectively. Motion Carried 6-0.

Date: March 6, 2006

Roll Call Number: 06-432

Action: [Approving](#) tax abatement application for 3430 South Union Street, for improvements completed in 2004. ([Council Communication No. 06-117](#)) Moved by Brooks to adopt, and request that the County Assessor process the application as if the application had been received on February 1, 2006. Motion Carried 6-1.

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

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.