



Council Communication

Office of the City Manager

Date	April 23, 2007
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Agenda Item No.	16
Roll Call No.	<u>07-</u>
Communication No.	<u>07-219</u>
Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Approval of one late-filed tax abatement application for improvements completed in 2005 for property located at 3201 East 52nd Street and denial of request to back-date the application as if the application had been filed by February 1, 2006.

SYNOPSIS:

Recommend approval of one late-filed tax abatement application and denial of request to back-date the application. The City has received an application for tax abatement for the value added by improvements completed in 2005 to property at 3201 East 52nd Street. The application is for improvements to property within a designated abatement area, meets the requirements for the area, and was filed within the two-year grace period allowed by State Law. The staff recommends that the City Council approve the application.

The applicant further requests that the application be "back-dated" so that abatement may be effective retroactively and applied to property taxes that have already been levied. Staff recommends that the request to "back date" the application be denied because such action is contrary to the express provisions of Iowa Code §404.4.

FISCAL IMPACT:

Amount: \$127,990 in forthcoming taxable value

Funding Source: Taxes are generated in the first year from the land value, but the improvement value will be forthcoming when the \$127,990 comes on the tax rolls after abatement ends.

ADDITIONAL INFORMATION:

The applicant for 3201 East 52nd Street has indicated that the abatement application may not have been filed by the developer since the developer does not have a copy of the date stamped application and there is no record of the application in the city's files from the time.

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 application is for a project that was completed in 2005 and was filed within the two-year grace period allowed by state law. This project is in a designated abatement area and meets the area's requirements. The City Council may approve the application and the owners will receive the full abatement schedule, but the scheduled abatement will commence with the taxes to be paid in fiscal year 2009-2010.

The City cannot change or misrepresent the date the applications were 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: February 26, 2007

Roll Call Number: 07-335

Action: [Approving](#) Tax Abatement applications (711) for additional value added by improvements made during 2006. ([Council Communication No. 07-096](#)) Moved by Hensley to adopt. Motion Carried 6-1.

Date: December 18, 2006

Roll Call Number: 06-2451

Action: [Approving](#) Tax Abatement applications (194) for additional value added by improvements made during 2006. ([Council Communication No. 06-777](#)) Moved by Vlassis to adopt. Motion Carried 6-0.

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.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

The tax abatement program on new improvements currently ends on December 31, 2008, unless the City Council extends the program beyond that date. Any application received by February 1, 2009 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.