

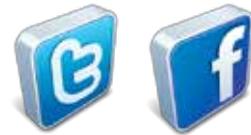
NEW ISSUES IN REDEVELOPMENT AND REPORTING

The Court of Appeals for the Eastern District of Missouri recently addressed an issue involving redevelopment in the city of Clayton. In the case of *Phillips v. City of Clayton*, the Court held that the ordinances approving a redevelopment project for a \$72,000,000 residential apartment tower in downtown Clayton were not subject to referendum by the voters. In that case, the city of Clayton had approved a development agreement with a developer that provided for a 50 percent abatement of taxes for 10 years and 50 percent for the following 10 years based on fair market value. The City had a Charter provision that provided that ordinances passed on the day of their introduction or ordinances levying taxes, were not subject to referendum. The trial court held in favor of the city of Clayton in rejecting the referendum petition. The Court of Appeals affirmed the finding that the Charter provision applied since the bill was voted on the day of introduction. The Court of Appeals also determined that the abatement ordinance also constituted a levy of the tax, and therefore was not subject to referendum under the City's Charter. The Court also rejected the petitioner's argument that the ordinances were legislative as opposed to administrative in nature under Missouri law.

A second recent ruling came from the Circuit Court of Boone County. In that case the Boone County counselor had filed suit against the city of Columbia seeking relief for the City's failure to comply with the reporting requirements regarding tax increment financing (TIF) projects. The TIF statutes in Chapter 99 RSMo have three separate reporting requirements for municipalities engaged in TIF projects. In 2009, the Missouri General Assembly passed a law, which states that any municipality that fails to comply with any of the reporting requirements shall

be prohibited from implementing any new TIF projects for no less than five years. The Court found that the City had violated the reporting requirements approximately 25 times. The Circuit Court held that the city of Columbia was prohibited from implementing any new TIF project for no less than five years. This decision is subject to rehearing or appeal but it does point out a very significant matter of law. The reporting requirements of Chapter 99 should be strictly followed. Otherwise, a municipality could be at risk for losing the ability to redevelop and better one's community for a period of no less than five years. This would be a very significant blow to municipalities who engage in TIF projects without following the reporting requirements. □

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