

Wisconsin Institute for Law & Liberty: Sues City of Eau Claire for using illegal TIF to raise tax revenue

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City claims it needs TIF district for a building that's already built, misuses tax dollars along the way

The News: The Wisconsin Institute for Law & Liberty (WILL), on behalf of the grassroots taxpayer organization Voters with Facts and eleven individuals, sued the City of Eau Claire for creating an illegal TIF (tax incremental finance) district in the city's Water Street neighborhood. The TIF district illegally captures tax revenue that ought to be paying for ordinary expenses like schools and roads, instead spending it on special projects within and near the district, including a bike trail and a parking lot.

What is Tax Incremental Financing? Tax Incremental Financing, or TIF, is an extraordinary financing tool intended to allow cities to revitalize areas that otherwise aren't being developed. Municipalities designate a TIF district to entice new development, then capture the increase in property tax revenue to pay for infrastructure or other improvements in the district. But state law requires TIF districts to pass a "but for" test, meaning a municipality must show that development in the district would not occur "but for" the TIF district.

The Lawsuit: In Eau Claire's TIF District 12, a \$14 million mixed use residence hall located at 222 E. Water St. was planned, constructed, and occupied before the

creation of the TIF in September 2017. Yet the city claimed that that building (as well as other developments the same developer already had planned) would not exist if the city didn't create the TIF district. This violates the statutory "but for" test.

TIF abuse like this exacerbates the problem of unaccountable government. Although often sold as "free" to the public, TIF districts raise property taxes and lets cities exceed their normal revenue limits. Here, property taxes will necessarily rise because the development's property tax revenue is captured and can no longer be counted on to pay for the cost of government services. Everybody else has to pay more to make up for that lack. That extra tax burden falls not only on City of Eau Claire taxpayers, but county, technical college, and K-12 school district taxpayers as well.

The Quotes: WILL President and General Counsel Rick Esenberg said, "The issue is not whether or not we like the city's planned use for the money. It is whether the city has used the TID law to impose higher taxes without asking the voters for permission"

WILL Deputy Counsel Tom Kamenick said, "The city is cheating its taxpayers. The burden of funding city and county governments and the schools should be shared by all taxpayers, including the owners of the existing building and the expected development in the TIF district. Using tax incremental financing in this situation means artificially high tax rates and thus increased taxes for the next 20 years."

Voters with Facts Volunteer, Cyndi Burton, noted: "The Water Street tax incremental district (TID) is the second district the City has created in two years in an area where development was in progress. It appears that this kind of abuse will continue unless we citizens take action. The practice of placing TIDS in areas that are developing is not only unlawful, but does a grave disservice to us taxpayers. It raises tax rates and in turn the taxes we pay."

Read the full complaint [HERE](#).