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**GLOBAL-CITY STATUS AT THE  
EXPENSE OF BLACK AND LATINO YOUTH:  
HOW CHICAGO'S TIF DISTRICTS  
DISPARATELY IMPACT CPS STUDENTS**

SHARI S. LINDSEY, J.D.\*

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**INTRODUCTION**

On March 19, 2011, over 250 members of the Chicago Teachers Union (“CTU”) and other education advocates gathered together at Jenner Elementary, one of the last neighborhood schools in Chicago’s Cabrini Green area.<sup>1</sup> The group was prepared to march in peaceful protest to Lincoln Park’s Clybourn Corridor, where they planned to rally outside the upscale community’s Bank of America branch and end at Grossinger City Autoplex.<sup>2</sup> Toting banners and signs depicting copies of car notes, which read “past due,” the crowd of adults and children eventually entered Grossinger. They demanded that the 8.5 million dollars former Mayor Richard M. Daley gave to the luxury car dealership through the city’s Tax Increment Financing (“TIF”) program be returned to Chicago’s public schools.<sup>3</sup> Af-

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\* Shari S. Lindsey is a 2012 graduate of DePaul University College of Law. She would like to thank the 2012-2013 J4SJ Board for its support throughout the editing process. She is especially grateful to Professor Sumi Cho for her guidance and for encouraging her to write this article for her Race & Racism in U.S. Law Seminar.

<sup>1</sup> *CTU and Community Allies Demand TIF Money be Returned to Schools*, CHICAGO TEACHERS UNION BLOG (Mar. 21, 2010), <http://www.ctunet.com/blog/ctu-and-community-allies-demand-tif-money-be-returned-to-schools>.

<sup>2</sup> Arlene Gloria, *CTU Leader Jackson Potter Arrested at TIF Protest*, PROGRESSIVE DEMOCRATS OF AMERICA BLOG, <http://www.pdaillinois.org/site/content/ctu-leader-jackson-potter-arrested-peaceful-anti-tif-demo>.

<sup>3</sup> CHICAGO TEACHERS UNION BLOG, *supra* note 1.

ter refusing the group's request to speak with the manager, a company official called the police, and two CTU staff coordinators were arrested while leaving the dealership and charged with misdemeanor criminal trespassing.<sup>4</sup> Jackson Potter, one of the staff members arrested during the demonstration, explained,

Big business is taking resources away from schools and working families, and we want it back immediately. This is a civil rights issue. All students have the right to equitable funding. As TIFs divert money to developers and corporations, our schools are starved. It's important that schools get what they need, and I would get arrested again if I need to.<sup>5</sup>

In justifying the group's first stop at Bank of America, Lawndale Little Village High School teacher, Katie Hogan, described how a third of her school's teaching staff got laid off, despite the increasing student population.<sup>6</sup> Hogan went on to state, "Bank of America got bailed out, but my class sizes next year may be 43, 44, 45 [students]. We need to end this corporate agenda and replace it with an education agenda."<sup>7</sup>

The Illinois Tax Increment Allocation Redevelopment Act was originally developed to allow municipalities to spur development in "blighted" communities.<sup>8</sup> The Act's purposes are to prevent further deterioration to these areas' tax bases and remove any threats to public health and safety that result from blighted conditions.<sup>9</sup> Municipalities, like the City of Chicago, have in turn created TIF districts, which collect real property tax increment revenues from local taxing districts such as schools, libraries and other publicly funded services for a period of 23

<sup>4</sup> Gloria, *supra* note 2.

<sup>5</sup> *Id.*; CHICAGO TEACHERS UNION BLOG, *supra* note 1.

<sup>6</sup> CHICAGO TEACHERS UNION BLOG, *supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> TAX INCREMENT Allocation Redevelopment Act, § 65 ILCS 5/11-74.4-2

<sup>9</sup> *Id.*

years.<sup>10</sup> These diverted revenues are supposed to either fund development projects or contribute to other ancillary expenses within the TIF districts.<sup>11</sup>

Unfortunately, remedying blight has been of very little concern to Chicago's public officials. During the last eight years of former Mayor Richard Daley's tenure in office, only 23 percent of the 1.84 billion dollars in TIF funds went to districts in the city's poorest neighborhoods.<sup>12</sup> In practice, the City of Chicago gives nearly 250 million dollars every year to connected developers in the form of TIFs for upscale development, while over 100 Chicago Public Schools are struggling to get stand-alone libraries staffed with librarians.<sup>13</sup> In fact, Whittier Elementary School's parents, teachers, students and their allies staged a 43-day sit-in at the school's "La Casita" (little house) back in the Fall of 2010, demanding that it be converted to a library for their children.<sup>14</sup> Quality school libraries are particularly important, especially since Chicago's current Mayor, Rahm Emanuel, has proposed an 8 million dollar cut in the Chicago public library budget, which will result in layoffs and a reduction in hours.<sup>15</sup>

Chicago Public School officials have also unveiled their plans to restructure the district by shutting down four failing schools and overhauling the staff at ten others in an effort to improve the school system.<sup>16</sup> Among the schools slated for closure is

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Juan-Pablo Velez, *In Poor Neighborhoods, TIFs May Need a Boost*, CHICAGO NEWS COOPERATIVE (Oct. 15, 2011), <http://www.nytimes.com/2011/10/16/us/tif-may-need-a-boost-in-poor-neighborhoods.html>

<sup>13</sup> Gloria, *supra* note 2.

<sup>14</sup> Ze Garcia, *CPS Won't Renovate La Casita, Turns Back on Whittier Parent Committee*, RADIO ARTE (June 22, 2011), <http://radioarte.org/2011/06/22/cps-wont-renovate-la-casita-turns-back-on-whittier-parent-committee>.

<sup>15</sup> *Rahm Emanuel Reduces Size of Chicago Library Cuts*, PUBLIC LIBRARIES (Nov. 4, 2011), <http://www.publiclibraries.com/blog/rahm-emanuel-reduces-size-of-chicago-library-cuts/>

<sup>16</sup> *'Teach In' Shows Opposition to Chicago School Closures*, EDUCATION NEWS (Dec.8, 2011).

Guggenheim Elementary, which is located in Chicago's Englewood neighborhood.<sup>17</sup> It is a school that was able to fight its way off the closings list almost two years ago. . . but consistently ranks among the lowest-performing schools in Illinois.<sup>18</sup> These students will be transferred to Bond Elementary, a higher-performing school four blocks away, and eventually other neighborhood students will go to Stagg Elementary, which is slated for a turnaround next year.<sup>19</sup> These school closures often displace thousands of students from their neighborhood schools, where they are forced to start over, sometimes in hostile or dangerous new environments.<sup>20</sup>

These are just a few examples of how TIFs help to create deficits in financial resources for some Chicago public schools, particularly those in lower income communities. School closures and slashes in funding for libraries are cheating CPS students out of an uninhibited opportunity to learn. This, coupled with even larger, systemic problems hinders effective teaching, both inside and outside of the classroom. However, financial resources can drastically change education and facilitate investment in good teachers, adequate facilities, and enhanced learning environments.<sup>21</sup>

While the topic of TIFs and its impact on Chicago public schools has been the subject of much journalistic debate, little has been said about how State law can encourage and eventually remedy local government abuse. Some scholars have criticized

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<sup>17</sup> See Joel Hood & Noreen S. Ahmed-Ullah, *CPS plans to shut 2 grade schools, phase out 2 high schools*, CHICAGO TRIBUNE (Dec. 1, 2011).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Noreen S. Ahmed-Ullah, *Greater Bronzeville Buffeted by School Closings: Shutting Down 15 Institutions in 12 Years has Destabilized Education' for Area Kids, Critic Says*, [http://articles.chicagotribune.com/2012-01-09/news/ct-met-cps-bronzeville2-20120109\\_1\\_closings-donoghue-elementary-cps-policies](http://articles.chicagotribune.com/2012-01-09/news/ct-met-cps-bronzeville2-20120109_1_closings-donoghue-elementary-cps-policies)

<sup>21</sup> CREATE, *Chicago School Reform: Myths, Realities, and New Visions* (Jan. 14, 2011), <http://createchicago.blogspot.com/2011/01/chicago-school-reform-myths-realities.html>.

the underlying structure of TIFs, which decentralizes a large degree of fiscal responsibility and developmental planning power to local governments.<sup>22</sup> For example, State courts can treat “blight” as a matter for municipal legislative determination. Predictably, in Cook County, very few challenges have been made to the creation of TIF districts in wealthy areas.<sup>23</sup> Others have recognized the problem with decentralization and have argued for simply reforming the existing TIF system, since it is a viable economic tool.<sup>24</sup> On the other hand, the Chicago Reader’s Ben Joravsky, one of the most outspoken commentators on the subject, criticizes TIFs overall, due in large part to its detrimental impact on schools and other public entities.<sup>25</sup>

While both of these arguments have merit, the best solution may be a compromise between the two perspectives. Because tax increment financing originated as a viable economic tool, it should be reformed to fund CPS schools, especially those schools in low-income, majority-minority neighborhoods.

Critical policy scholars and critical race theorists have posited that government tools like TIFs have always been used to fuel global city motivations at the expense of Black and Latino youth.<sup>26</sup> Pauline Lipman argues that as Chicago becomes a major world city, its economic restructuring and globalization influ-

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<sup>22</sup> Richard Briffault, *Symposium: Reassessing the State and Local Government Toolkit: the Most Popular Tool: Tax Increment Financing and the Political Economy of Local Government*, 77 U. CHI. L. REV. 65 (2010).

<sup>23</sup> *Bd. of Educ. v. Vill. of Burr Ridge*, 793 N.E. 2d 856, 863 (Ill. App. Ct. 2003). A SCHOOL district, fearing diversion of its TAX revenues, successfully challenged the village’s creation of a TIF district in one of the wealthiest communities in Illinois.

<sup>24</sup> Michael T. Peddle, *Symposium: Growth Management for the Next Century: Challenges & Opportunities: TIF in Illinois: The Good, the Bad, and the Ugly*, 17 N. ILL. U. L. REV. 441 (1997).

<sup>25</sup> See generally Ben Joravsky, *The Shrinking Slush Fund*, The Chicago Reader, July 18, 2012.

<sup>26</sup> Pauline Lipman, *Chicago School Policy: Regulating Black and Latino Youth in the Global City*, in *EDUCATION AS ENFORCEMENT: THE MILITARIZATION AND CORPORATIZATION OF SCHOOLS* (Kenneth Saltman Ed., 2003).

ence school politics, which produces new forms of inequality and marginalization along racial, ethnic, class, and gender lines.<sup>27</sup> Scholars from Chicagoland Researchers and Advocates for Transformative Education (“CREATE”) echo this point by asserting that consistently underperforming schools are “unevenly but predictably distributed in Chicago’s public K-12 education. . . and that these inequities will continue to exist because of a range of larger, systemic problems that hinder effective teaching,” such as a lack of financial resources.<sup>28</sup> CREATE scholars link financial resources to good learning and teaching conditions and also support the reallocation of TIF funding.<sup>29</sup>

These systemic reasons are a compelling argument for why TIFs should be used to fund Chicago public schools. Former Mayor Richard Daley originally supported the idea of using surplus TIF revenue to fund CPS schools; however, Rahm Emanuel has only recently agreed to *consider* using surplus TIF money in this way, despite the fact that 867 million dollars in unallocated TIF funds could be used to fund arguably “blighted” schools within the city.<sup>30</sup> Some public magnet and selective enrollment schools, conveniently located in thriving districts, have already received millions in TIF funding. For example, the Chicago Board of Education officially approved a plan in September 2010 to spend 85 million dollars toward building a new Jones College Prep to be completed by 2013.<sup>31</sup> The majority of the funding for this development will come from TIFs.<sup>32</sup> Although the new school is expected to hold twice as many students as the old facility, the plan to allow some children who actually live in

<sup>27</sup> *Id.*; see also David Harvey, *The Right to the City*, *New Left Review* 53 (September-October 2008), <http://newleftreview.org/?view=2740>.

<sup>28</sup> CREATE, *supra* note 20.

<sup>29</sup> *Id.*

<sup>30</sup> Claire Wapole, *TIFs Are Not for Kids* (Aug. 20, 2011, 8:58 AM), <http://ilraiseyourhand.org/content/tifs-are-not-kids>.

<sup>31</sup> Matthew Blake, *New Jones College Prep on schedule for 2013: Parents want more room for neighborhood kids*, *THE CHICAGO JOURNAL* (Dec. 22, 2010), <http://www.chicagojournal.com/news>.

<sup>32</sup> *Id.*

the neighborhood to attend the school, in addition to those admitted through selective enrollment, is receiving much resistance.<sup>33</sup>

This article will examine how TIFs have enabled the city of Chicago to divert millions in taxes earmarked for Chicago public schools to upscale real estate interests in some relatively prosperous neighborhoods. I argue that while the creation of TIF districts can serve legitimate purposes, the State's deference to local governments has led to unintended abuse in that far too many Chicago TIF districts are not "blighted" within the meaning of the Act. Therefore, TIFs should be reallocated to fund *all* Chicago Public Schools, as this will improve the quality of education and uplift communities in the process. Through an analysis of the TIF Act, I will first discuss what constitutes "blight" and how Illinois courts have developed this concept over time. I will also discuss how the basic structure of TIFs equip local officials with unfettered power to fund capitalist goals at the expense of CPS students, especially those located in low-income, majority-minority neighborhoods. This aspect of the analysis will be rooted in critical policy scholarship and critical race theory. I will conclude by drawing upon quantitative data, which will demonstrate that TIF abuse in Chicago has been going unchecked for years, adversely impacting Black and Latino children enrolled in Chicago Public Schools.

## I. TAX INCREMENT FINANCING: GENERAL OVERVIEW AND CRITICISM

For more than fifty years, local governments across the United States have used TIFs as a public financing method to subsidize redevelopment and community improvement projects in distressed areas or regions where development might not oth-

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<sup>33</sup> Sean Stillmaker, *South loop high school to get new facility*, THE COLUMBIA CHRONICLE, <http://columbiachronicle.com/south-loop-high-school-to-get-new-facility/>.



erwise occur. TIF-funded projects have a pattern of causing an increase in value to the surrounding real estate.<sup>34</sup> As a result, TIFs use prospective gains in taxes to finance current improvements, hoping to create conditions for future investment.<sup>35</sup> This increased site value and investment sometimes generates increased tax revenues, which constitutes the “tax increment.”<sup>36</sup> Tax Increment Financing then dedicates the tax increment within a defined district to finance the debt issued to pay for the project.<sup>37</sup> In essence, TIFs create funding for “public” projects that may not otherwise be affordable to localities, by allowing the municipality to collect real property tax increment revenues from local taxing districts such as schools, parks, and sanitary and fire districts located within the TIF district.

Unlike intergovernmental grants and other aid programs, municipal TIF decision-making is free from upper-level government control, bureaucracy, and oversight.<sup>38</sup> Additionally, federal law does not play a role in Tax Increment Financing.<sup>39</sup> Although state laws set out basic rules governing the creation of local TIF districts, very few states impose state approval requirements for local TIF actions.<sup>40</sup> For example, in some states, approval is only required when the TIF plans to use the state sales tax to help finance its projects.<sup>41</sup> Moreover, few states require localities to report on the effectiveness of their TIF activities.<sup>42</sup> Even in states that request reports, the information required is minimal and punishment for failure to report is indif-

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<sup>34</sup> See CRAIG L. JOHNSON & JOYCE Y. MAN, *Tax Increment Financing and Economic Development: Uses, Structures, and Impacts* (2001).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Briffault, *supra* note 21, at 84.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

ferently pursued.<sup>43</sup> TIFs are essentially a local financing tool with no strings attached.

More than either simple tax abatement programs or any other programs that are narrowly focused on services to businesses, TIFs allow cities to directly influence the physical and economic development within their neighborhoods.<sup>44</sup> This city-shaping capacity stems from the ability of a locality to direct TIF's incremental revenue stream to traditional land use planning and zoning powers.<sup>45</sup> Local governments have used TIFs to articulate and shape distinct urban development visions and to persuade developers and firms to bring that vision to life. Indianapolis has used TIFs to construct a venue for sporting events and amateur sports organizations.<sup>46</sup> The financing method was also used for a high-density, mixed-use, transit-oriented "new urbanist" development in Colorado's Front Range.<sup>47</sup> In Hoffman Estates, Illinois, Sears was able to construct its headquarters using TIFs.<sup>48</sup> Finally, the Boston Red Sox were able to build a spring training facility in Florida.<sup>49</sup> These examples illustrate that TIFs are an extremely powerful local tool.

### *A. The History of TIFs in Illinois and the Legislature's Intent*

In 1977, the Tax Increment Allocation Redevelopment Act became effective in Illinois.<sup>50</sup> The state legislature adopted the Act to provide municipalities with the means to eradicate blighted conditions by developing or redeveloping areas so as to

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<sup>43</sup> *Id.* at 84-85.

<sup>44</sup> *Id.* at 85.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-2 (2011); *see also* People ex rel. City of Canton v. Crouch, 403 N.E.2d 242 (Ill. 1980).

prevent further deterioration to the tax bases in these districts.<sup>51</sup> The Act was also enacted to remove the “threat to the health, safety, morals, and welfare of the public,” which blighted conditions present.<sup>52</sup> To be eligible for tax increment allocation financing, a municipality must first establish that the proposed redevelopment area meets the statutory criteria for designation as a “blighted area, conservation area, or a combination thereof, or an industrial park conservation area.”<sup>53</sup>

Many attempt to justify TIFs as being a flexible and powerful financing tool for municipalities undergoing fiscal stress, especially in difficult economic times; however, TIF was never intended to be a general purpose economic development tool. Rather, the Illinois legislature intended to simply vest municipalities with the ability to “use the taxing power of other local government bodies to selectively target *blighted* areas for redevelopment.”<sup>54</sup> While TIF is a powerful and necessary tool in the local economic development arsenal, it should be used with appropriate discretion in order to serve its intended purpose.<sup>55</sup>

The underlying concept of TIFs is grounded in facilitating the redevelopment of blighted property that would not be subject to private sector investment “but for” the intervention of the government through a TIF district and its financing provisions.<sup>56</sup> In such situations, blighted conditions would have made redevelopment of the property unattractive or infeasible, such that private investment could not be reasonably expected in the absence of government incentives.<sup>57</sup> Given the power and tremendous

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<sup>51</sup> 65 ILCS 5/11-74.4-2.

<sup>52</sup> *Id.*; see also Board of Education of Community High School District No. 218 v. Village of Robbins, 765 N.E.2d 449 (Ill. App. Ct. 2001).

<sup>53</sup> 65 ILCS 5/11-74.4-3(a), (b), (c), (d), (n) (2011).

<sup>54</sup> Michael T. Peddle, *Symposium: Growth Management for the Next Century: Challenges & Opportunities: TIF in Illinois: The Good, the Bad, and the Ugly*, 17 N. ILL. U. L. REV. 441 (1997).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

commitment inherent in TIF financing, as well as the fact that very few if any areas become blighted overnight, one would expect a pattern of private sector and government efforts to redevelop the property prior to a decision to declare a TIF district.<sup>58</sup> A pattern of previous redevelopment efforts helps make the “but for” case.<sup>59</sup> However, the Illinois statute is silent on exactly the type of evidence required to make the case for satisfaction of the “but for” test. This silence is responsible for much of the debate over TIF districts.

i. TIFs in Chicago and the Decentralization of Power

Because Chicago has a significant number of TIF districts, it has become a prime location for examining the benefits and disadvantages of the financing mechanism. TIFs were first established in Chicago in 1984.<sup>60</sup> As of 2007, there were 157 TIF districts in the City, 17 of which were added between 2006 and 2007.<sup>61</sup> Today, TIF districts make up over a quarter of the city’s land area.<sup>62</sup> Back in 2005, the then appointed commissioner of the city’s Planning and Development department, Lori Healey, was instrumental in the process of approving TIF districts as first deputy commissioner.<sup>63</sup> Only recently has Cook County Clerk David Orr, in order to bring transparency to Chicago and Cook County tax increment financing districts, began to feature information regarding Chicago area districts on his office’s website.<sup>64</sup> The featured information includes City of Chicago TIF

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Sherri Farris and John Horbas, *Creation vs. Capture: Evaluating the True Costs of Tax Increment Financing*, 6 *Journal of Property Tax Assessment & Administration* 13, <http://www.cookcountyassessor.com/forms/CreationvsCapture.pdf>.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> See <http://www.cookcountyclerk.com/tsd/tifs/Pages/TIFs101.aspx>

<sup>64</sup> *Id.*

revenue by year and maps of Chicago and Cook County suburban municipalities' TIF districts.<sup>65</sup>

Despite the City's move towards "transparency," many neighborhoods continue to grapple with vacant, decaying blocks and struggling retail districts.<sup>66</sup> The Western Madison Street neighborhood is a prime example of this occurrence. The far western stretch of Madison Street used to be the "downtown" of the West Side, until the race riots and factory closings of the late 1960s sent the area spiraling into decay.<sup>67</sup> As a result, the once thriving district began to see heightened population loss, poverty, crime and even blight.<sup>68</sup> Over a decade ago, the City decided to turn around the crumbling community by creating a tax increment financing district along Madison Street from West Garfield Park to the city limit at Austin Avenue.<sup>69</sup> Now half-way through the TIF's 23-year life span, the city has spent only 4.8 million dollars on commercial revitalization projects, and as a consequence the neighborhood remains depressed.<sup>70</sup> When the city first created the Madison-Austin TIF in 1999, the district's redevelopment plan called for the city to spend 42 million dollars on a mix of public works and private-development subsidies to "re-establish Madison Street as an active and vibrant commercial district, while accommodating residential and institutional uses where appropriate."<sup>71</sup>

During a span of eight years, the Daley administration only spent 4.8 million dollars in TIF money on commercial revitalization projects, including small-business grants and streetscaping along Madison Street from Pulaski Road to Kostner Avenue, which totaled less than half the 12.3 million dollars collected

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<sup>65</sup> *Id.*

<sup>66</sup> Velez, *supra* note 12.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

from the district's property-tax increment.<sup>72</sup> David Merriman, an economics professor and director of the Institute of Government and Public Affairs at the University of Illinois, has emphasized the *difficulty* in making TIFs work for poor neighborhoods:

It's very difficult for those poor places to be turned around by this tool because the property taxes aren't going to generate enough revenue to do the massive push that you need. There's got to be development to generate revenue, and that's probably not going to work unless you already have some market momentum.<sup>73</sup>

His statements assert that the TIF Act, though potentially a viable economic tool, is insufficient to achieve its stated goal of eliminating blight in economically depressed areas. But TIFs are in fact a viable economic tool, created almost three decades ago to specifically spur growth in poor, blighted neighborhoods. Furthermore, local government *abuse* has rendered TIFs virtually ineffective in some of Chicago's poorest neighborhoods, because these districts are often denied the full funds they are entitled to under the TIF Act, which hinders their ability to attract more development. The Madison-Austin TIF has simply been shortchanged, like far too many lower income neighborhoods in need of what Merriman described as a "massive push."

The city of Chicago actually escalated TIF investment during the last eight years of former Mayor Daley's tenure.<sup>74</sup> However, a mere 23 percent of the 1.84 billion dollars in TIF funds were spent on districts in the city's poverty-packed South and West Sides, where the median household income is around \$35,000.<sup>75</sup> City documents show that TIF districts in and around downtown received 891 million dollars of TIF investment during this eight

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

year period, about 48 percent of the total TIF funds.<sup>76</sup> Districts in North and Northwest communities, areas with median household incomes well above the city median of \$46,781, received 305 million dollars, or another 17 percent of TIF outlays.<sup>77</sup>

When Mayor Rahm Emanuel announced the creation of his TIF reform commission in May 2011, he promised to “return the program to its roots,” telling reporters that TIFs were intended for blighted communities, not high-rent areas.<sup>78</sup> But State enabling legislation gives Chicago the authority to designate tax increment financing districts.<sup>79</sup> The districts usually last 23 years or enough time to pay back the bonds issued to fund the improvements.<sup>80</sup> While arrangements vary, it is common to have city government assume the administrative role and make decisions about how and where the tool is applied.<sup>81</sup>

Financing Chicago’s thriving downtown theatre district is yet another example of how the City has allocated Tax Increment funds.<sup>82</sup> This flexibility in creating TIF districts in neighborhoods that do not possess noticeable appearances of “blight” simply reflects the enormous amount of local autonomy built into TIFs.<sup>83</sup> “The widespread authorization of TIFs, steady relaxation of the conditions for use of TIFs, and the degree of judicial deference to local judgments concerning public purpose, but-for causation, and blight are themselves evidence of the degree of decentralization in our system when it comes to local planning, spending, and economic development.”<sup>84</sup> The abuse of TIFs in this way demonstrates that the State of Illinois is more

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<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> Juan-Pablo Velez, *TIFs Lagging Where They are Most Needed*, CHICAGO NEWS COOPERATIVE (Oct. 17, 2011).

<sup>79</sup> Briffault, 77 U. CHI. L. REV. 65 (2010).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

than willing to delegate considerable economic development authority to municipalities with relatively modest oversight.<sup>85</sup> The absence of checks on Chicago's use of TIF funds come at a costly price. . . the denial of resources for Chicago's inner city youth who are in the CPS school system.

## ii. But-for Causation and Blight Factors Considered

The two most common statutory issues in TIF cases are 1) whether the TIF is necessary for economic growth within the proposed district (whether TIF is likely to be the "but-for" cause of any ensuing development) and 2) whether the area is blighted within the meaning of the statute.<sup>86</sup> A finding of blight under the TIF Act requires that an area constitutes an "economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use."<sup>87</sup>

The fact that TIF expenditure must be the "but-for" cause of subsequent economic growth in a TIF district has led courts to occasionally reject a TIF proposal when it seems likely that investment would occur without it.<sup>88</sup> However, as TIF districts have spread, the "but-for" requirement has diminished. Today fewer than half the states apply a "but-for" requirement in their TIF enabling legislation, despite the test's low standard.<sup>89</sup> Courts generally defer to the "but-for" determinations of municipal legislative bodies and are likely to accept city judgments that are debatable and sometimes conclusory with minimal support.<sup>90</sup>

In order to be eligible for tax increment allocation financing, the Chicago municipality must next establish that the proposed

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<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* See also *Geisler v. City of Wood River*, 892 N.E.2d 543, 561 (Ill. App. Ct. 2008).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*



redevelopment area meets the statutory criteria for designation as a blighted area, a conservation area, a combination thereof, or an industrial park conservation area.<sup>91</sup> Before vacant land can be deemed blighted, a number of statutory blight factors must first exist.<sup>92</sup> These blight factors include lack of community planning; obsolete platting of vacant land;<sup>93</sup> diversity of ownership of such land;<sup>94</sup> tax and special assessment delinquencies on the land; flooding on all or part of the land; and deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.<sup>95</sup> The municipality is then required to establish that the growth and development of the property as a taxing district is impaired by a combination of two or more of these blight factors.<sup>96</sup> Various interpretations of the Illinois TIF Act suggest that the qualifying statutory blighting factors should be present to 1) a meaningful extent and 2) reasonably distributed throughout a proposed tax increment allocation financing district such that a reasonable person could conclude that public intervention is necessary.<sup>97</sup>

As noted, the TIF Act was originally designed and justified as a policy to remedy the consequences of blight; therefore, a finding of blight still remains a legal requirement for the creation of a TIF program in most states across the U.S.<sup>98</sup> Cook County is

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<sup>91</sup> See *Pleasantdale School District v. Village of Burr Ridge*, 793 N.E. 2d 856, 861 (Ill. App. Ct. 2003).

<sup>92</sup> *Id.*

<sup>93</sup> “Obsolete platting of vacant land would include parcels of limited or narrow size and configuration, or parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements.” 65 ILCS 5/11-74.4-3(a)(1).

<sup>94</sup> “Diversity of ownership of vacant land refers to a situation where different ownerships and interests in the land are sufficient in number to retard or impede the ability to assemble the land for development meeting contemporary development standards.” 65 ILCS 5/11-74.4-3(a)(1).

<sup>95</sup> Briffault, *supra* note 21.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* at 263. See also *Henry County Board v. Village of Orion*, 663 N.E.2d 1076 (Ill. App. Ct. 1996).

<sup>98</sup> Briffault, *supra* note 21, at 78.

one of many municipalities that have altered the meaning of blight from the slum image of decaying or deteriorating structures, unsafe conditions, and economic and social distress to a form of mere “underdevelopment, lacking the physical or legal preconditions for further economic development.”<sup>99</sup> Cook County’s definition is not the most deviant. States like Pennsylvania define blight as “inadequate planning of an area, excessive land coverage by the buildings thereon, faulty street or lot layout, and the defective design and arrangement of buildings.”<sup>100</sup> As noted above, these statutory standards typically influence judicial acceptance of municipal blight claims even if it is not readily apparent that an area is seriously deteriorated.<sup>101</sup>

1. A Rare, yet Illustrative Case: *Pleasantdale School District No. 107 v. Village of Burr Ridge*

Although courts rarely refuse to make a finding of blight in Cook County, the First District Appellate Court found that the trial court was correct in finding that vacant property located in the Village of Burr Ridge, one of the wealthiest communities in Illinois, did not meet at least two of the four statutory blight factors to qualify for TIF funding.<sup>102</sup> The local school district filed a complaint, arguing that if TIF ordinances were used to finance a proposed hotel and conference center, the school dis-

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<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> See also, *JG St. Louis West, Ltd. v. City of Des Peres*, 41 S.W.3d 513 (Mo. App. Ct. 2001) (finding that a shopping mall in St. Louis could be blighted, and thus the beneficiary of a TIF-funded redevelopment plan, although the mall was “indisputably the city’s greatest economic asset” because it would be unable to compete with newer malls in the area); *Mazur v. Trinity Area Sch. Dist.*, 961 A.2d 96 (Penn. 2008) (finding that a rural site proposed for a \$ 400 million retail, restaurant, and hotel development project near the intersection of two interstate highways could be blighted, even though the tract was “a prime location for regional shopping and entertainment” because it exhibited a few statutory blighting factors).

<sup>102</sup> *Burr Ridge*, 793 N.E.2d 856, 859 (Ill. App. Ct. 2003).

trict and other overlying taxing districts would be “irreparably harmed by the illegal and improper diversion of tax revenues.”<sup>103</sup> The appellate court held that the Village could not establish that the growth and development of the property as a taxing district was impaired by a combination of blight factors.<sup>104</sup> It reasoned that although great deference is given to municipalities in enacting TIF districts, the presumption of blight vanished once the school district introduced evidence to the contrary.<sup>105</sup>

The Court held that the area was not blighted within the meaning of the TIF Act because no statutory blight factor was present to a meaningful extent and reasonably distributed throughout the proposed TIF district, such that a reasonable person could conclude that public intervention was necessary.<sup>106</sup> First, the court found that there was no obsolete platting<sup>107</sup> of vacant land that would interfere with the development of the property because it consisted of two large parcels that could be readily subdivided.<sup>108</sup> Secondly, the court found that the diversity of ownership<sup>109</sup> blight factor was not present because only two separate parties owned the land, and there was no indication that their interests impeded development on the property.<sup>110</sup> Thirdly, the court concluded that because developers wanted to build a hotel on the land, this indicated that the blight factor pertaining to flooding concerns did not exist.<sup>111</sup> Finally,

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<sup>103</sup> *Id.* at 858.

<sup>104</sup> *Id.* at 861.

<sup>105</sup> *Id.* See Reed-Custer Community Unit School District No. 225-U v. City of Wilmington, 625 N.E.2d 381 (Ill. App. Ct. 1993) (finding that while appropriate deference should be given to Village’s legislative findings in ordinances, which are presumed valid, “once a party introduces evidence to rebut that presumption, the ‘bubble bursts’ and the presumption disappears.”).

<sup>106</sup> *Id.* at 863.

<sup>107</sup> See *supra* note 92.

<sup>108</sup> *Burr Ridge*, 793 N.E.2d at 863.

<sup>109</sup> See *supra* note 93.

<sup>110</sup> *Burr Ridge*, 793 N.E.2d at 864.

<sup>111</sup> *Id.* at 866.

the court determined that no evidence was presented that previous tax and special assessment delinquencies on the property existed for an unreasonable period of time.<sup>112</sup>

The court concluded its decision by finding that the Village failed to satisfy the requisite “but-for” test.<sup>113</sup> It noted that the lack of development in the area was due to the tax disparities between Dupage and Cook Counties, as the property sat within both districts.<sup>114</sup> Therefore, it was neither blight nor an absence of TIF funding that was discouraging developers.<sup>115</sup> In fact, it was determined that many developers were still willing to proceed with development without TIF financing, but the residents actively opposed the plans.<sup>116</sup> Moreover, a substantial amount of growth had occurred in the immediate area surrounding the property, which cut against a finding of blight.<sup>117</sup>

Unlike the court in *Burr Ridge*, Chicago city officials are reluctant to make adverse blight determinations, where doing so would threaten the city’s position as a global destination. Even more troubling is the lack of oversight over this type of TIF abuse, which leaves very little room for judicial review as to the existence of the statutory blight factors. Chicago’s priorities regarding the use of TIFs have always been clear. In fact, the city’s very first TIF district was established in 1984 in the Central Loop,<sup>118</sup> which even back then was far from a traditionally “blighted” or depressed area. The downtown district was ini-

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<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 867-87.

<sup>114</sup> *Id.* at 867.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* at 867-68; See also *Henry County Board v. Village of Orion*, 663 N.E.2d 1076, 1081 (Ill. App. Ct. 1996) (finding that Village of Orion’s claim that land was blighted because of “loose or missing shingles, gravel drives, grass growing through the cracks in a driveway, and surface cracking in driveways and sidewalks” was rejected by the court as no more than “routine disrepair common to many communities.”).

<sup>118</sup> City of Chicago, Housing and Economic Development [http://www.city-ofchicago.org/city/en/depts/dcd/supp\\_info/tif/central\\_loop\\_tif.html](http://www.city-ofchicago.org/city/en/depts/dcd/supp_info/tif/central_loop_tif.html)

tially targeted for the redevelopment of nine full and partial blocks in the North Loop but was expanded in 1997 to promote private investment on additional blocks to the east and south.<sup>119</sup> This TIF grew to encompass 139 acres, which supported property assembly efforts for major redevelopment projects and “targeted improvements that support[ed] mixed-use vitality within the cultural and economic center of the city.”<sup>120</sup> Priority projects included the construction of new office spaces and hotels; the rehabilitation of the theater district; and the transformation of older commercial spaces into upscale, luxury residences.<sup>121</sup> Funds from the district also improved the area’s “transit facilities, open spaces, and streetscape amenities.”<sup>122</sup>

Although the district expired in 2008, proponents of the Central Loop TIF maintain that the district continues to be “incredibly productive for all of Chicago.”<sup>123</sup> They credit the TIF for most of the downtown success stories in recent years, claiming that it created and retained thousands of jobs and provided the funds for the reconstruction of the State Street retail district.<sup>124</sup> They also cite to the fact that the funding was needed to save and restore several historic theaters from demolition, which was an integral step in revitalizing Chicago’s downtown.<sup>125</sup> Former Mayor Daley marked the tenth anniversary of the theater district by praising the partnership between the City and theater owners for drawing millions of visitors downtown and supporting thousands of jobs for residents.<sup>126</sup>

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<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> Lori Healey & John F. McCormick, *Urban Revitalization and Tax Increment Financing in Chicago*, GOVERNMENT FINANCE REVIEW (Dec. 1999), <http://www.gfoa.org/downloads/UrbanRevitalizationandTIFinChicago.pdf>

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Theater Districts 10th Anniversary*, 40th Ward Daily Gazette, <http://www.aldermanoconnor.com/1443/10th-anniversary-of-chicagos-theater-district/>

No one is opposed to a thriving downtown district, but when the city's public schools, located just a few miles south and west are struggling for resources, one should think twice about using a program designed to eradicate blight to fund questionable capitalist goals. After all, TIFs divert much needed finances from public schools.

## II. TIFs AND THE DISPARATE IMPACT ON LOW-INCOME CHILDREN OF COLOR IN MAJORITY-MINORITY CHICAGO NEIGHBORHOODS

According to the City of Chicago Office of Research, Evaluation and Accountability, African American and Latino students make up eighty-six percent of the CPS student population.<sup>127</sup> Whites make up about nine percent of the students enrolled in CPS schools,<sup>128</sup> although the most recent census data indicates that Chicago's overall white population exceeds forty-one percent.<sup>129</sup> A closer look at the 2010 decennial census data also demonstrates that white children make up only about sixteen percent of the total school-age population (ages 5-17) in the city.<sup>130</sup> Therefore, while whites have the greatest population presence in the city, there is a substantial deficit of white children in the school system generally, public and private. The statistics merely suggest that fewer whites choose to raise their families in the city, which means that Chicago's inner-city youth are disproportionately Black and Latino, and the majority of them are enrolled in Chicago's public schools. The "choice" to opt out of CPS is the result of historical disinvestment, which includes the misuse of TIF funds. It remains an unfortunate fact

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<sup>127</sup> Chicago Public Schools, City of Chicago Office of Research, Evaluation and Accountability, [http://www.cps.edu/about\\_cps/at-a-glance/pages/stats\\_and\\_facts.aspx](http://www.cps.edu/about_cps/at-a-glance/pages/stats_and_facts.aspx).

<sup>128</sup> *Id.*

<sup>129</sup> U.S. Census Bureau, <http://quickfacts.census.gov/qfd/states/17/1714000.html>.

<sup>130</sup> *Id.*

that those who hold the most political and financial clout have the least vested interest in the City's public school system.<sup>131</sup> This unsettling phenomenon is not unique to Chicago and is deeply imbedded in our nation's racial history.

Following the Supreme Court's decision in *Brown v. Board of Education*<sup>132</sup> and its progeny, a critical problem emerged that would change the face of public education for decades. "White flight" to suburban areas increased in response to heightened calls for desegregation.<sup>133</sup> As a result, in a vast majority of urban centers across the country, inner-city populations became increasingly composed of racial minorities.<sup>134</sup> The surrounding suburbs, on the other hand, were almost exclusively white, and the small minority populations residing in the suburbs were concentrated in almost exclusively black towns.<sup>135</sup> Because school district lines parallel town borders, the result was school segregation all over again, but this time by choice.<sup>136</sup> Scholars have posited that once white flight took effect, "no amount of attendance zone revision[s], pairing and clustering of schools, and busing of students within the city school district could achieve substantially integrated student bodies in the schools."<sup>137</sup> Simply put, there were not enough white students left in the city

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<sup>131</sup> See *University of Chicago Lab Schools: Rahm Emanuel's Children Will Attend Next Year*, HUFF POST CHICAGO (July 21, 2011). Chicago Mayor, Rahm Emanuel, chooses the very prestigious, private University of Chicago Laboratory Schools for his own children, as opposed to CPS. President Barack Obama and Michelle Obama also chose to have their daughters attend the Laboratory schools.

<sup>132</sup> 347 U.S. 483 (1954).

<sup>133</sup> Erwin Chemerinsky, *Separate and Unequal: American Public Education Today*, 52 Am. U.L. Rev. 1461, 1468 (2003).

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* at 1469; See also Theodore Smedley, *Developments in the Law of School Desegregation*, 26 VAND. L. REV. 405, 412 (1973).

school systems to achieve equal education.<sup>138</sup> Throughout the years, strategic residency has gained widespread acceptance under the guise of parents exercising their personal freedom to send their children to “good” schools, where they can associate with other “good” students.<sup>139</sup>

Today, Chicago area public schools are more segregated than they have been for decades, and it is only getting worse as more and more parents grow concerned with providing for their own children the best education they can afford. This agenda is not surprising. All parents want the best opportunities for their children, but we have to at least acknowledge the bigger picture. . . that this desire is in direct conflict with the interests of historically disadvantaged Black and Latino youth.<sup>140</sup> Persistent *de facto* segregation in Chicago is primarily to blame for disparities in public school funding generally. In Illinois, like most states, education is substantially funded by local property taxes.<sup>141</sup> Wealthier suburbs have significantly larger tax bases than poorer inner cities, which means that these municipalities can tax at a low rate, yet still have a great deal to spend on education.<sup>142</sup> In contrast, urban centers must tax at a higher rate and invariably have less to spend on education.<sup>143</sup> A brief example is crucial to illustrating what this means for the quality of public (not private) education some Chicago area students enjoy over others who reside in the inner city.

In 2008, then CEO of Chicago Public Schools, Arne Duncan, held a news conference pleading with Springfield representa-

<sup>138</sup> *Id.* “By 1980, whites constituted less than one-third of the students enrolled in the public schools in Baltimore, Dallas, Detroit, Houston, Los Angeles, Miami, Memphis, New York, and Philadelphia.” *Id.* at 1468.

<sup>139</sup> See generally Carl Bankston III & Stephen J. Caldas, *Majority African American Schools and Social Injustice: the Influence of De Facto Segregation on Academic Achievement*, 75 SOCIAL FORCES 535 (Dec. 1996).

<sup>140</sup> *Id.*

<sup>141</sup> Chemerinsky, *supra* note 132, at 1470.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*



tives to consider CPS's great funding needs.<sup>144</sup> Duncan went on to state that "[s]ome school districts in the area spend close to \$20,000 per pupil, per year. If CPS got an extra \$4,000 per year, that would be an extra \$1.6 billion. That would do a lot to accelerate student achievement."<sup>145</sup> Duncan was probably referring to schools like New Trier High School, which spends about \$19,927 per pupil each year,<sup>146</sup> well above CPS's average of about \$10,500 per pupil.<sup>147</sup> New Trier Township is a northern Chicago suburb. The township has just over 55,000 residents, 92.1% of whom are white, with a median family income of \$144,976.<sup>148</sup> Ninety-two percent of New Trier High's funding comes from local property taxes.<sup>149</sup> Thus, New Trier's location alone gives the school a tremendous advantage, which is why these students tend to outperform other students in the state.<sup>150</sup> The school has been featured as "quite possibly the best public school in America" with its "rich" and "demanding" curriculum and "faculty of the caliber typically found at good colleges."<sup>151</sup>

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<sup>144</sup> Emerald Morrow, *A \$340 Million Deficit Leaves Chicago Public Schools Pleading with Springfield for Help*, MEDILL REPORTS CHICAGO (Feb. 2008), <http://news.medill.northwestern.edu/chicago/news.aspx?id=78343&print=1>.

<sup>145</sup> *Id.*

<sup>146</sup> Federal Education Budget Project: School Finance, <http://febp.newamerica.net/background-analysis/school-finance>; see also *Unequal Education: New Trier High and Camden High*, University of Michigan, Dept. of Psychology, [http://sitemaker.umich.edu/dompierre.356/new\\_trier\\_high\\_school\\_\\_il\\_](http://sitemaker.umich.edu/dompierre.356/new_trier_high_school__il_);

<sup>147</sup> Morrow, *supra* note 143.

<sup>148</sup> *Unequal Education*, *supra* note 145.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.* In 2008, Illinois state senator James Meeks encouraged CPS students and parents to skip the first day of school to attend a protest at New Trier that involved attempting to mass enroll students there. The protest was over inequities in school funding between schools in Chicago and New Trier. Students were greeted by cordial parent volunteers to register at the Northfield Campus, but after a relatively quick and peaceful registration, the students left. None of them were admitted. See [http://articles.chicagotribune.com/2008-08-28/news/0808280296\\_1\\_sunset-ridge-school-chicago-public-schools-freshman-campus](http://articles.chicagotribune.com/2008-08-28/news/0808280296_1_sunset-ridge-school-chicago-public-schools-freshman-campus).

<sup>151</sup> Gene I. Maeroff, *Let's Hear it for New Trier*, TOWN AND COUNTRY MONTHLY 147 (June 1986).

Ironically, TIFs were developed to give low income communities the opportunity to become more like New Trier Township, with its thriving schools and abundant resources. The only difference is that creating a TIF district in a distressed area runs the risk of placing a greater burden on the already underfunded neighborhood schools, since TIFs freeze the amount of property taxes schools can collect for a period of 23 years.<sup>152</sup> However, this risk is not wholly without benefit to struggling CPS schools. Research suggests that substantial economic investment in blighted communities can have a positive impact on the children who live in these communities ability to learn, which can essentially make up for mediocre school conditions.<sup>153</sup> Sociologist, James Coleman, emphasized that factors like family stability and other intangible qualities are highly important in determining educational outcomes.<sup>154</sup> This deserves mention only to shed light on the reality that a number of barriers can adversely impact the educational health of the inner-city students, and living conditions are one of them. Unfortunately, Chicago's TIF abuse, namely shortchanging the communities the program was intended to serve and in turn using TIFs in non-blighted areas, only adds to the plight of underfunded, majority black and Latino public schools. The misuse has persisted for too long, and the cost to minority students is too great. TIFs need to be returned to Chicago Public Schools to give its students a fair chance to compete.

### CONCLUSION

Tax Increment Financing diverts future property tax revenue growth to special funds, which are then used to finance development projects. TIFs can help spur job growth and provide for revitalized neighborhoods, when used properly. The financing

<sup>152</sup> Joravsky, *The Schools Scam*, *supra* note 24.

<sup>153</sup> Bankston, *supra* note 138.

<sup>154</sup> *Id.*

mechanism was originally designed to spur business development in blighted neighborhoods, where development would not otherwise occur. When abused, TIFs transform into secretive slush funds that divert money from schools, parks, and a city's general tax revenue to privileged insiders and big business.<sup>155</sup>

Chicago's strategic allocation of TIF funds is an attempt to conceal its global city agenda. It is clear that economic redevelopment in some depressed Chicago neighborhoods<sup>156</sup> has been sacrificed for pricey downtown redevelopment aimed at attracting tourists and embodying the ultimate playground for the "new urban gentry."<sup>157</sup> Meanwhile, working-class and poor Chicago communities located closer to the central business district are up against gentrifying forces.<sup>158</sup> Essentially, these areas are being stripped to make way for upscale real estate interests, like condominiums intended for the young, child-less, and highly paid.<sup>159</sup> Eventually, former residents of these conveniently located neighborhoods are forced out of the city into segregated areas with high concentrations of poverty and few economic opportunities.

Chicago's current Mayor, Rahm Emanuel, has the ability to reverse this legacy of TIF abuse and strengthen Chicago Public Schools. In his 2012 budget, Mayor Emanuel declared a 20 percent TIF Surplus.<sup>160</sup> Although he recently stated his intent to send 60 million dollars back to Chicago public schools, libraries, parks, and other government areas for 2012, this is not the full surplus amount.<sup>161</sup> In fact, there remains 240 million dollars in

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<sup>155</sup> See Joravsky, *The Schools Scam*, *supra* note 24.

<sup>156</sup> See Velez, *supra* note 12 (discussing how the partially TIF-funded Western Madison Street neighborhood continues to grapple with blight).

<sup>157</sup> Lipman, *supra* note 25, at 334.

<sup>158</sup> *Id.*; see also CHICAGO TEACHERS UNION BLOG, *supra* note 1.

<sup>159</sup> Lipman, *supra* note 25, at 335.

<sup>160</sup> Eric Tellez, *TIF Abuse Buoy Downtown Fat Cats, As Neighborhoods Suffer* (VIDEO), GRASSROOTS COLLABORATIVE (2011).

<sup>161</sup> *Id.*

surplus TIF funds still unaccounted for.<sup>162</sup> This is potential money that can be used to stop cuts to vital programs and services, and prevent thousands of layoffs. . . particularly teacher layoffs.

Residents also want to see TIF money being spent to improve Chicago's impoverished areas. Job creation in these communities is a good start. Historically, the city's Housing and Economic Development Department has focused TIF-generated job creation in downtown while overlooking communities like Brighton Park.<sup>163</sup> For example, from 2000-2010, the LaSalle Central TIF district, which exists in the heart of downtown, created 3551 jobs, while the Stevenson Brighton TIF district, located in the Brighton Park neighborhood, created zero jobs.<sup>164</sup> This is precisely why Mayor Emanuel's decision to keep 240 million dollars in surplus TIF funds is so critical. If the Mayor decides to give TIF dollars to multimillion dollar corporations based in the downtown area as opposed to crucial neighborhood services, those who are on the margins are sure to feel the resulting cuts in jobs and services the most.<sup>165</sup>

To date, Chicago's global city aspirations have been fueled in large part by a financing mechanism intended to benefit poor people living in poor neighborhoods. But because of the lack of oversight over municipal TIF spending, high-powered officials are able to use TIFs to make the rich richer. With greater oversight, transparency, and meaningful criteria by which TIF districts are created and their funds allocated, TIFs could be used to uplift stubbornly impoverished neighborhoods. However, TIFs must not stray from their explicit goal of spurring development in areas where it would not otherwise occur. Otherwise, they do much more harm than good to the communities they were designed to help.

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<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *See Id.*

