MUNICIPAL PILOT AGREEMENTS

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What's up with PILOTs?

❖ **Discussion Topics:**

- What is a PILOT?
- Why sign a PILOT agreement?
- How does a PILOT work?
- PILOT Calculation Example
- The Process – Implementing a PILOT Agreement
- Billing the PILOT
- Other PILOT Considerations
- Recap

PILOTs 101

What is a PILOT?

- Most NJ properties pay taxes based on their assessed values and the existing tax rates
- Some make a negotiated **P**ayment-**I**n-**L**ieu-**o**f-**T**axes

Traditional Property Taxation

	Tax Rate $ (per $100)	Tax Rate %	Tax Bill
Municipality	$ 0.782	**39.1%**	$ 391,000
County	$ 0.177	8.9%	$ 88,500
School	$ 1.041	52.0%	$ 520,500
	$ 2.000		$ 1,000,000
Assessed Value			*$50,000,000*

Payment-in-Lieu-of-Taxes

	%	PILOT Bill
Municipality	**95.0%**	Stay
County	5.0%	Tuned
School	0.0%	for Example!

These properties are exempt from taxes on buildings and improvements, but make payments according to a financial agreement

PILOTs 101

- **<u>Types of Long-Term PILOT Projects</u>**:
  - Redevelopment of all or any part of areas deemed to be in need of redevelopment
  - Relocation projects for residents displaced by the redevelopment area
  - Low and moderate income housing projects

Photo/Barnegat Patch


Photo/Barnegat Patch


Photo/Jerry McCrea/The Star-Ledger

PILOTs 101

- **PILOT Agreements** are made in accordance with**:**
  - **Long-Term Tax Exemption Law "LTTE Law"** 40A:20-1 et seq.
    - LTTE Law works with the Local Redevelopment and Housing Law **"LRHL"** 40A:12A-1 et seq.
    - Designed to carry out LRHL goals to promote the "physical development most conducive to the social and economic improvement of the State" – PILOTs can facilitate this
  - Municipality forms agreement with Urban Renewal Entity **(URE),** which is a limited dividend or non-profit entity
- LTTE is typically no more than 35 years from agreement execution or 30 years from date of substantial completion

Why sign a PILOT agreement?

- Incentives for **developers**
  - PILOT typically less than taxes otherwise due
  - Makes the project economically viable for investors to achieve an acceptable level of ROI
  - Stability/certainty with re: to tax obligations - helps secure project financing from banks
  - Attracts commercial and residential tenants

- Incentives for **municipalities**
  - Transform an area in need of redevelopment (i.e. blight)
  - Create new budget revenues **(95% of ASC)**
  - Stimulate economy/create jobs
  - Provide affordable housing
  - New ratables upon expiration

Photo/housingallianceofpa.org

LTTE Law: 40A:20-12

❖ **Annual Service Charge (ASC)** - one of two methods:

1) As a percentage of annual gross revenues

- No more than 15% in the case of low/moderate income housing project
- No less than 10% in the case of all others projects

2) As a percentage of total project cost

- No more than 2% in the case of low/moderate income housing project
- No less than 2% in the case of all others projects

Note: Method employed is defined in financial agreements

How does the PILOT work?

LTTE Law: 40A:20-12

- The **ASC**, or PILOT, is paid over five statutory “tax” phase-in stages
- **Stage 1** – period between 6-15 years, ASC is the amount based on % method selected (% of revenue or of cost) defined in agreement
- **Stages 2 through 5** – ASC equals the amount based on % method selected (% revenues or of cost) ...

OR a percentage of Taxes Otherwise Due, **whichever is greater**

Stage	**Period**	**Method Defined in FA: % of Revenues / % of Cost**	OR	**% of Taxes Otherwise Due**
1	B/w 6 and 15 years	10%+ / 2%+		0%
2	B/w 1 and 6 years after Stage 1	10%+ / 2%+		20%
3	B/w 1 and 6 years after Stage 2	10%+ / 2%+		40%
4	B/w 1 and 6 years after Stage 3	10%+ / 2%+		60%
5	At least 1 year	10%+ / 2%+		80%

Once agreement expires, the buildings and improvements are put on the tax rolls (100%)

Calculation of PILOT

PILOT Example - % of Revenues

Gross Annual Revenues		
Residential	$	4,000,000
Commercial		500,000
Vacancies/Concessions		(200,000)
Other Income		10,000
Subtotal		4,310,000
PILOT Rate (% of Revenues)		10.00%
Annual Service Charge as % of Revenues	**$**	**431,000**

Note: Gross annual revenues and PILOT rate are defined in financial agreements

PILOT Example (continued)

	A. % of Gross Revenues		
	Revenues		$ 4,310,000
	% of Revenues		10.00%
A.	ASC - as % of Revenues		$ 431,000

	B. % of Taxes Otherwise Due		
	PILOT Agreement Year		*18*
	PILOT Assessment - land & improvements		$ 50,000,000
	2016 Tax Rate per $100		$ 2.000
	Taxes Otherwise Due		$ 1,000,000
	% of Taxes Otherwise Due (Year 18)		20.00%
B.	ASC - % of Taxes Otherwise Due		$ 200,000

Annual Service Charge - Greater of A. and B.	**$ 431,000**

How we get there...

Local Redevelopment and Housing Law 40A:12A-1 et seq.

Governing Body adopts a Redevelopment Plan

Governing Body directs Planning Board to study area in need of redevelopment

Resolution

→

Planning Board prepares Map, holds public hearing, recommends to designate area for redevelopment

→

Governing Body designates all or part of area for redevelopment, based on Planning Board recomm.

Resolution

Governing Body authorizes prep. of Redevelopment Plan consistent with goals of Master Plan

→

Planning Board reviews and submits Redevelopment Plan to Governing Body

→

Governing Body introduces, holds public hearing, and adopts Redevelopment Plan

Ordinance

Process to Implement PILOT

LTTE Law: 40A:20-8

Governing Body approves a Financial Agreement

- Mayor accepts applications from UREs for approval of redevelopment projects – w/in 60 days Mayor submits to Council
  - Applications are required to be consistent w/ the Redevelopment Plan
  - They need to include many details regarding the project financials, including estimated cost and projected P&L
  - Apps are also required to include a proposed financial agmt.
- Mayor/administration/team negotiate the terms w/ developer to ensure relative benefits to the municipality outweigh the costs
- Agreement takes into effect once **Governing Body passes ordinance** (i.e. introduction, 2nd reading) to execute agreement

You have an agreement, now what?

Agreement is Executed

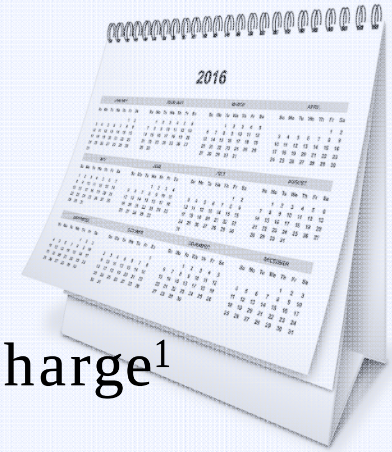
Construction Begins

Substantial Completion (Cert. of Occupancy)

C.O. = Substantial Completion…clock starts, time to bill!

PILOT Billings

- **Billing begins 1st day of month following C.O.**
  - Payments are due quarterly
    - Feb. 1, May 1, Aug. 1, Nov. 1
  - Entity is billed separately for land taxes and receives a credit against Annual Service Charge[1]
  - Stub period billing– C.O. date in middle of quarter, prorate
  - Estimate current billings if percentage of project revenues…
  - UREs are required to submit **audited annual financials**
    - Calculation of Annual Service Charge – true-up bills
    - Net Profit calculation – limited dividend entity and non-profit entities must conform to LTTE Law



[1]Affordable housing projects financed with an NJHFMA loan are not required to pay land taxes

Other PILOT Considerations

- New Jersey Housing and Mortgage Financing Agency Law
  - 55:14K-1 et seq.
  - **NJHMFA** program loans utilized to fund housing projects
  - Provides affordable rents for low/moderate income homes
  - Law allows for PILOT until NJHMFA loan is retired (50 yrs.)
  - Land is exempt from taxes, too, unlike other PILOT projects
- Redevelopment Area Bond Financing Law
  - 40A:12A-65
  - Municipality issues **RAB**s to provide gap financing for project
  - PILOT designed (at least) to make the municipality whole
  - Bypass ASC rules defined in 40A:20-1 w/ regard to % tax stages

RECAP

- ✓ Adopt Redevelopment Plan
- ✓ Negotiate terms of PILOT agreement – ensure benefits exceed costs
- ✓ Adopt ordinance approving application for LTTE and authorizing the execution of financial agreement
- ✓ Begin billing once there's a C.O.
- ✓ Review URE audited financials and true-up bills if necessary
- ✓ Municipality retains 95% of ASC
- ✓ Goes to traditional property taxation once agreement ends –> new ratables