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
## What is a PILOT?

- Most NJ properties pay taxes based on their assessed values and the existing tax rates.
- Some make a negotiated **Payment-In-Lieu-of-Taxes**

### Traditional Property Taxation

<table>
<thead>
<tr>
<th></th>
<th>Tax Rate</th>
<th>Tax Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipality</td>
<td>$0.782</td>
<td>391,000</td>
</tr>
<tr>
<td>County</td>
<td>$0.177</td>
<td>88,500</td>
</tr>
<tr>
<td>School</td>
<td>$1.041</td>
<td>520,500</td>
</tr>
<tr>
<td><strong>Assessed Value</strong></td>
<td><strong>$50,000,000</strong></td>
<td><strong>$1,000,000</strong></td>
</tr>
</tbody>
</table>

### Payment-in-Lieu-of-Taxes

<table>
<thead>
<tr>
<th></th>
<th>%</th>
<th>PILOT Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipality</td>
<td>95.0%</td>
<td>Stay</td>
</tr>
<tr>
<td>County</td>
<td>5.0%</td>
<td>Tuned</td>
</tr>
<tr>
<td>School</td>
<td>0.0%</td>
<td>for Example!</td>
</tr>
</tbody>
</table>

These properties are exempt from taxes on buildings and improvements, but make payments according to a financial agreement.
Types of Long-Term PILOT Projects:

- 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
PILOT Agreements are made in accordance with:

- **Long-Term Tax Exemption Law** \( \text{``LTTE Law''} \) 40A:20-1 et seq.

- LTTE Law works with the **Local Redevelopment and Housing Law** \( \text{``LRHL''} \) 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
How does the PILOT work?

**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?

- 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.

<table>
<thead>
<tr>
<th>Stage</th>
<th>Period</th>
<th>Method Defined in FA: % of Revenues / % of Cost</th>
<th>% of Taxes Otherwise Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>B/w 6 and 15 years</td>
<td>10%+ / 2%+</td>
<td>0%</td>
</tr>
<tr>
<td>2</td>
<td>B/w 1 and 6 years after Stage 1</td>
<td>10%+ / 2%+</td>
<td>20%</td>
</tr>
<tr>
<td>3</td>
<td>B/w 1 and 6 years after Stage 2</td>
<td>10%+ / 2%+</td>
<td>40%</td>
</tr>
<tr>
<td>4</td>
<td>B/w 1 and 6 years after Stage 3</td>
<td>10%+ / 2%+</td>
<td>60%</td>
</tr>
<tr>
<td>5</td>
<td>At least 1 year</td>
<td>10%+ / 2%+</td>
<td>80%</td>
</tr>
</tbody>
</table>

Once agreement expires, the buildings and improvements are put on the tax rolls (100%).
## Calculation of PILOT

### PILOT Example - % of Revenues

<table>
<thead>
<tr>
<th>Gross Annual Revenues</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>Commercial</td>
<td>500,000</td>
</tr>
<tr>
<td>Vacancies/Concessions</td>
<td>(200,000)</td>
</tr>
<tr>
<td>Other Income</td>
<td>10,000</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>4,310,000</strong></td>
</tr>
</tbody>
</table>

| 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

*Resolution*

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

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

**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!
 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 Charge¹
- 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

¹Affordable 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 RABs 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
✓ 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