

“But For” the Incentives Program

Issues Presented:

WHERE WE ARE
WHERE TO GO

Policies Proposed:

THE FUTURE OF ATTRACTING AND MAINTAINING THE TAX BASE

In Alphabetical Order

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-Short Historical Background, the Cook County Advantage-

Cook County assesses property for tax purposes differently than any other county in Illinois. In Cook County alone, assessment authorities not only calculate the value of each property (your market value), but also classify each property as vacant land, residential, commercial and industrial. Each classification has a rate of assessment (your level of assessment) that is different. Residential property will receive a tax bill that is different (usually lower) from a commercial property. Historically, Cook County's classification system produces a property tax system that shifts the burden of taxation from residential property to commercial and industrial property, unlike the rest of the state.

Cook County, since before the ratification of the Illinois 1970 Constitution, has had a system of classification for property assessment purposes in alleged violation of the constitution in effect at that time. See *Taxation of Real Property in Cook County – The Railroad Cases and the future of de facto classification*, Richard L. Wattling 1968. In his 1968 article, Wattling explored de facto and de jure classification of residential versus industrial/commercial property in relation to then current litigation, concluding that the de facto system can be made legal by revising the Revenue Article (Property Tax Code) and the Constitution. The change to the Illinois Constitution (1970) in fact occurred two years after Wattling's article allowing counties like Cook County to adopt a classification system effectively enshrining Cook County's classification system. Meanwhile, the rest of Illinois uses a 33-1/3% level of assessment with a somewhat more limited set of incentives options as compared to Cook County. See IDOR, General Guide to Local Property Tax Cycle.

-Technical Background-

As a matter of background, the term "level of assessment" is a technical term that defines a rate. The Illinois Constitution and county ordinance set the highest and lowest rate. So for example, if your

house is worth \$100,000 on the market and your area's level of assessment "rate" on residential property is 10% then your assessed value is \$10,000. The difference between the highest level of assessment and the lowest is provided by the Illinois Constitution and is limited to 2 1/2 to 1. Simply, if the highest assessed value is 25%, then the lowest is 10%. That means if residential property is assessed at 10% of market value and commercial/industrial property is assessed at 25% of market value, then the commercial/industrial property will have an assessment higher in proportion to the residential property. Compare this level of assessment with the rest of the State, which is at 33-1/3%, and the economic realities are clear which is especially true in high tax rate areas.

Example:

In Cook County

A \$350,000 market value bungalow will have an assessment of \$35,000, or an assessment of 10% of market value.

A \$1,000,000 market value warehouse will have an assessment of \$250,000, or an assessment of 25% of market value.

A \$1,000,000 market value warehouse inside of Cook County with an incentive classification will have an assessment \$100,000, or 10% of market value.

The Rest of Illinois

A \$350,000 market value bungalow will have an assessment of \$116,550 or an assessment of 33-1/3%% of market value.

A \$1,000,000 market value warehouse outside of Cook County will have an assessment of \$333,333 or 33-1/3% of market value.

Unless other factors cause a jurisdiction to increase its tax rate, developers may consider Cook County based on factors that include a lower level of assessment with an incentive classification. The lower level of assessment correlates to a lower tax bill compared to a similar industrial/commercial property without an incentive classification inside of Cook County as well as the rest of Illinois. The benefits of the lower level of assessment does not translate well in areas with very high tax rates in combination

with low assessments and high owner occupied residential properties. See *Appendix Data, sample rates from Cook County South Suburbs*.

As a side note, certain particular areas of Cook County have high tax rates. These higher tax rates increase the burden of doing business and can become so great that it becomes financially unfeasible to develop and/or move the business. There are many factors that can increase barriers to development which include such factors as: the ratio of residential property versus industrial/commercial property, the number and financial demands of taxing bodies such as school districts, outstanding pensions, debt, tax anticipation bonds, bonds, business flight, residential flight, progressive programs and the expansion of homeowner type exemptions all of which may shift and/or increase the tax rates. Although none of the aforementioned is subject of this analysis, the Incentives Program is one known way to alleviate some but not all of these tax increases by expanding the tax base.

-Technical Background, Incentives-

The Incentives Program is not a tax abatement program and does not result in tax loss. Although it may seem that the incentive is the sole recipient of a benefit with the communities in the taxing district taking a share of the property tax redistribution, the actual direct benefit effect for the community is from the expansion of the tax base. The expansion of the tax base occurs where an industrial/commercial business takes over a vacant building, vacant lot, or invests in the rehabilitation of the property – the net effect is that it increases the taxable assessable values. The theory here is that some or any addition to the tax base at a 10% level of assessment is better than not adding any tax base at any level of assessment. We can analogize the incentives program to an ambulance with its paramedics trying to stabilize a victim whilst getting to a hospital for more treatment that is

comprehensive. Any review of the Incentives Classification program should always look at the communities before an incentive class arrives (condition precedent). A simple pre-condition analysis clearly shows that the incentive classes are useful, especially when viewing the post-condition results.

Exercise: In the following exercise, we compare two communities that have taken a different approach to dealing with vacant commercial property. Community A is passive and is not actively assisting its commercial base while Community B actively seeks to assist businesses, thereby reducing burdens on the residential taxpayer. We assume that each community's government budget is \$2,000,000, a multiplier of 2.8 (note the multiplier is the state's way of bringing Cook County back to 33-1/3%) and we solve for the tax rate.

Community A with \$10,000,000 combined residential AV and \$500,000 in combined commercial AV and \$25,000 commercial property AV with 90% vacancy = 6.79% tax rate

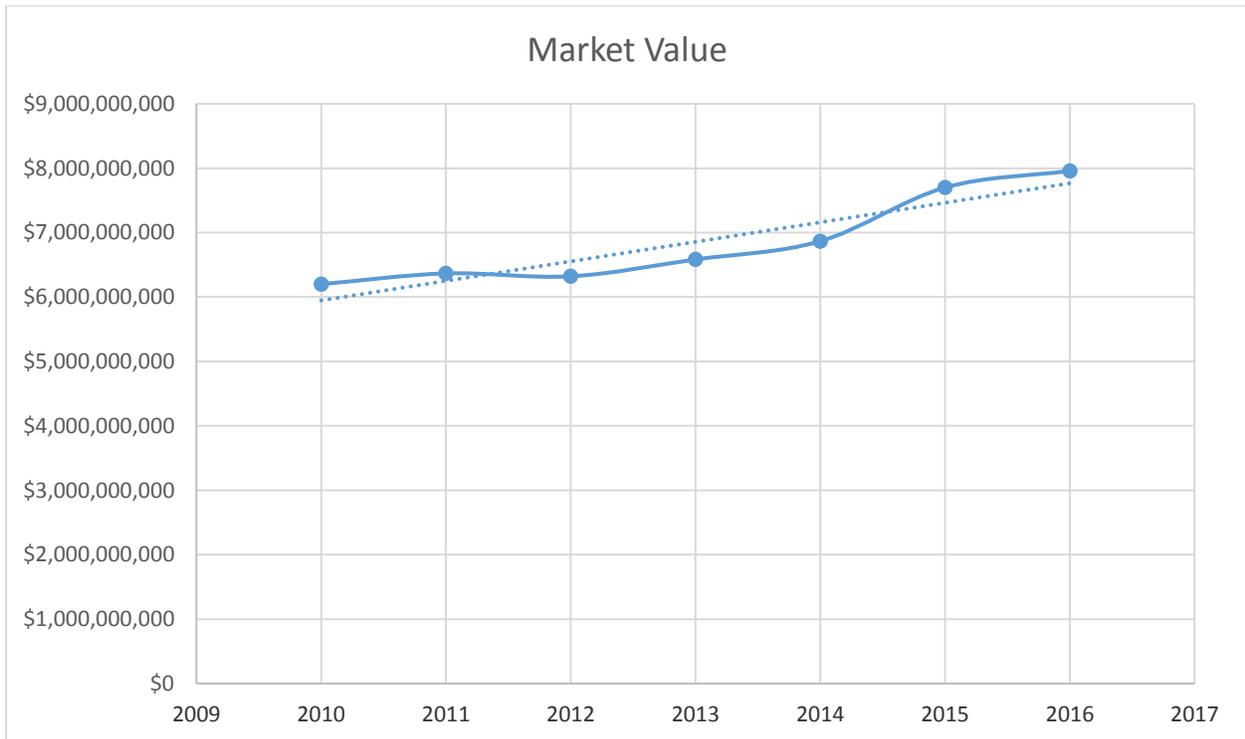
Vs.

Community B with \$10,000,000 combined residential market value and \$500,000 in combined commercial AV and \$250,000 Incentive AV = 6.64% tax rate

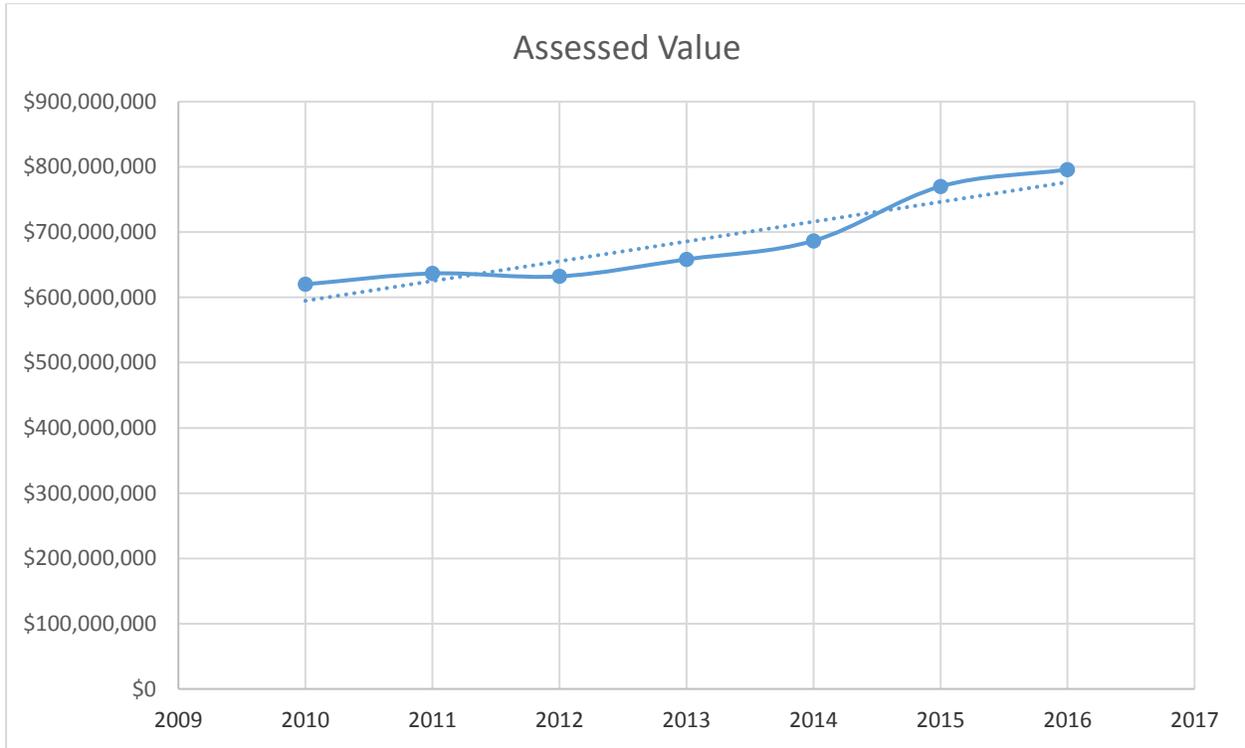
Although the exercise is simplistic, and assumes comparable budgets between governments and taxing districts – which is never the case - we show that Community B has a lower tax rate because it expanded the tax base. Although the expansion of the tax base is small in relative terms – any expansion of the tax base will result in a net positive outcome in relation to the tax rates. This means that even in somewhat higher tax rate communities, it is better to have some expansion of the tax base rather than none.

-Where We Are-

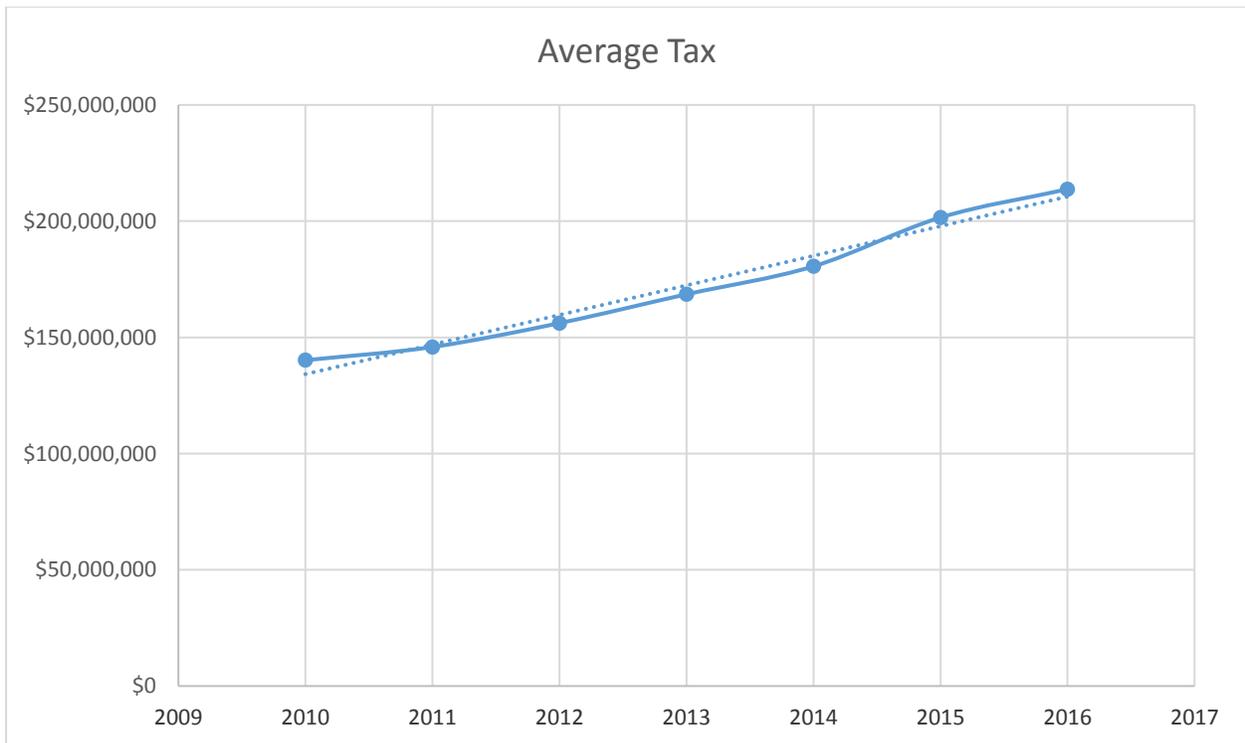
In Cook County, the average total market value of all incentive properties is approximately \$8 billion dollars. From 2010 to 2016 the incentives property expanded the tax base by nearly \$2 billion dollars in market value. In other words, without the incentives properties, the County as a whole would lack, on average, approximately \$8 billion dollars in market value tax base and associated economic activity.



The total average assessment mirrors the increase in market value and brought in nearly \$200 million dollars in newly assessable property between 2010 and 2016. Overall taxpayers in this county had the benefit of nearly \$800 million assessable dollars added to the tax base that resulted in lower tax bills on average.



Applying an overall Cook County average tax rates shows that the incentives of all types provided over \$140 million dollars in 2010 and nearly \$213 million dollars in 2016, or an increase of approximately \$73 million dollars over those seven years. Stated another way, between 2010 and 2016 an additional 52.14% in tax dollars was created by the incentives program. Over that same period, the Consumer Price Index Inflation was approximately 14% and average GDP growth was 2.175%. The average effect is the addition of over \$200 million property tax dollars derived directly from incentives properties – this is revenue that would never have been collected without the incentives program. At best, without the incentives program, the amount of property tax dollars would have been substantially less; as those tax dollars would have been collected from abandoned, derelict properties, or low value properties with heavy deferred maintenance, if at all. The effect for the home owning taxpayer is an expanded tax base reduced the overall tax rate resulting in lower property tax bills.



The better measure of whether the incentives program had the intended effect of expanding the tax base clearly shows in the average overall county tax rates in the chart below. The incentives program, although small, shows real and tangible difference in the average tax rates. The net effect on the residential homeowner living in certain south suburban municipalities would likely yield difference that are far more dramatic especially considering the actual municipal tax rates, some of which are over the thirtieth percentile. See *Appendix Data*.

	2010	2011	2012	2013	2014	2015	2016
Average Tax Rate	0.0685	0.0771	0.0880	0.0962	0.0965	0.0981	0.0958
Average Tax Rate without Incentives	0.0693	0.0781	0.0892	0.0975	0.0979	0.0996	0.0973

- Understanding Where We Are-

The post-incentive application data shows that the incentive classes of all types have dramatically increased the tax base. Although the numbers are averages, they show a clear increase in the utilization of the incentive program that fundamentally expanded the tax base. A controversial narrative has arisen lately arguing that incentives classification results in a tax loss due to the lower level of assessment and that the community is not served by granting incentives classes as they give property tax revenues away. In addition, new demands have formed due to the misinformation generated from the controversial narrative: that incentive recipients ought to bear additional burdens to, in effect, repay their tax savings through some sort of social responsibility requirement. The controversial narrative is incorrect for many reasons; two major ones are as follows: The chief reasons is that the incentive class is for re-occupying abandoned property, building new improvements on vacant property, or requires investment (aside from the new SER program). There is no tax base if the industrial/commercial taxpayer decides to leave and/or develop elsewhere. “But for” the incentive, no development would occur and the tax base would not have increased meaning that you, the home

owning taxpayer, would face higher property taxes. Secondly, the assumption is wrong because they treat the County in a vacuum and assumes that businesses cannot leave or must – for some business reasons – be within the borders of this County. Although the county contains internationally renowned logistics capacity, strong economic engines and a highly skilled workforce, assuming businesses are somehow fixed in place is a fatal error and ignores long-standing policies by neighboring states and counties that actively seek to attract businesses away from Illinois. See *citations*. Clearly, from both a government and citizen perspective, the residential property owner is always better served by having an active industrial/commercial tax base at any level of assessment rather than none.

This study should not be read as a criticism of existing incentives or their renewability. Nor is this study a criticism of the controversial narrative that views incentives as some purported tax give away program. This study is a clarification to educate those who have made assumptions on the matter and taken policy actions contrary to the benefit of the taxpayers and the community based on those assumptions. Trends in data due to the impact of new regulations that will be imposed on incentives recipients to include compliance with all Federal, State and Local labor laws five years prior to application, Cook County Minimum Wage Ordinance, Cook County Living Wage Ordinance and the Cook County Prevailing Wage Ordinance will likely be seen through the next few triennial assessment cycles and may negatively affect investment in this county. The policy consideration quandary is how and when the effects of regulations are measured.

The danger in waiting to see the effects of new regulations through the next few triennial assessment cycles (3 to 9 years) is the inability to measure the outcome. The long-term implications is that we will not be able to measure whether private investment plans are abandoned and established elsewhere. Further, once established in a business friendly environment, that investment is lost, if not for decades

then permanently, which includes ancillary benefits of jobs, housing and supporting economic activity. The current raw data over the past three years shows a huge and substantial decline trend in Class 8 incentive classification requests. The current raw data for Class 8 eligibility applications show a -75.68% decline in the last three years; and the decline is concurrent with the recent amendments to the incentives program ordinances. See *Appendix, Class 8 Eligibility Applications*. This is an important data point because Class 8 have a higher use rate in higher tax rate areas of the County's south suburbs. See *Appendix Data*. Whether this decline is the result of the double effect of high taxes in addition to heightened government regulation remains to be seen in future assessment cycles. However, the south suburbs – with their high tax rates and economic challenges – a movement away from Class 8 incentives should be viewed as an early warning indicator. Anecdotal information indicates an abandonment of investment plans in the south suburbs due to heightened regulatory requirements occurring in conjunction with high tax rates.

Instead of a response to criticism of existing methods to expand the property tax base, this study should be viewed from a point that the incentives program along with the multitude of other programs may not be substantial enough to expand the tax base sufficiently to reduce the overall tax burdens or, full use of commercial/industrial property – or more pointedly – attract and maintain businesses in Cook County. This study should be considered to debate what needs to be done to attract and maintain businesses here in Cook County. A statewide debate is occurring, See SB 3285, necessitating a statewide response to the loss of economic vitality of this state as a whole. Proposals should be debated whether more extensive methods to incentivize businesses should occur. The analog used before is that the incentives program is an ambulance and the paramedics are trying to stabilize an injured patient and the patient desperately needs to get to a hospital. If the ambulance is eliminated—can that patient be saved? The open debate is what types of actions government should take to

stabilize the tax base, the analytical steps that should be taken to understand the local issues and possible options, if any, to expand the tax base.

-Analytical Steps and Options, Identify Maximum Theoretical Tax Base-

To identify the Theoretical Maximum Tax Base (“TMTB”), the economic development department should first identify all vacant residential and vacant industrial/commercial lots contained within their taxing boundaries. Residential lots, unless of substantial contiguousness with re-zoning potential should be excluded. All other lots, especially properly zoned lots, should be considered in the theoretical lot analysis (“TLA”). The total TLA lots should be analyzed with a GIS system and/or Assessor’s records to determine total TLA lots square feet. A parking lot versus commercial/industrial improvement ratio (“P to I/C”) should be created based upon existing zoning requirements, or theoretical requirements. For example, commercial properties depending on continuous customer flows require easy entry and exit parking lots with some lots set aside for employees. Whereas industrial improvements require infrastructure that supports high truck traffic and all day parking for employees. Using the P to I/C ratio will produce the maximum improvable square feet and parking square feet for TLA analysis. A high/low range (“H/L Range”) of comparable pricing per square feet is extracted from existing/known properties within the taxing boundaries. Again, a H/L Range is produced for both the theoretical improvement and parking. Combining the available data should then yield the maximum theoretical tax base.

Find total TLA Square Feet

Create P to I/C ratio

Divide P to I/C ratio into TLA Square Feet = P TLA and I/C TLA

Create H/L Range for P and I/C

Multiply responding H/L Range into P TLA and I/C TLA

Resulting in Theoretical Maximum Tax Base (“TMTB”) both High and Low range
(Assumes the utilization of only assessed value for purposes of analysis).

After having identified the maximum theoretical tax base, an educated guestimate should be made to determine the maximum reduction in the overall average tax rate for the taxing boundary (all taxing districts in that boundary). To do this, add the TMTB to the existing total AV for the taxing boundary, apply the State Multiplier to produce a theoretical total equalized assessed value. Take the known total tax extended dollar amount for the taxing district(s) and solve for the total average tax rate.

-Analytical Steps and Options, Application of Data-

The raw data produced by determining the TMTB and the Theoretical Tax provides an excellent starting point for analyzing the potential or non-potential of the taxing district by both the government and taxpayer. From a government planning perspective, the data can provide insight for infrastructure development. Taken together, government services and monies can be concentrated in areas that could yield the highest return – in real growth and, from an assessment perspective – expansion of the assessment base. The information may also provide the homeowner with a realistic perspective of the value and expense of government services versus the burden of property taxation. For example, a taxing district could provide a putative homeowner with data to determine whether a stable tax bill and government services (i.e., education) are worth the expense of living in a particular municipality (or taxing district). According to the National Association of Home Builder’s, the average homebuyer expects to stay in a house between ten and twenty years. See *Index of Citation and Selected Citations*. We can assume that the average homeownership time correlates very well with raising of a family in a school district (i.e., elementary and high school = ~ 12 years). Therefore, that putative homeowner would likely look at previous property tax trends prior to purchasing a home and

having a future trend available could assist with that home purchase. Therefore, knowing the TMTB and Theoretical Tax is extremely useful for planning industrial and commercial development, attracting, and maintaining a higher level of homeownership (i.e., building the community). As a warning, however, the TMTB and Theoretical Tax should not be analyzed in a linear fashion.

Nothing, as recent history suggests, is linear – especially growth. The most notable example was the recent economic recession with the resultant downturn in the residential real estate market. According to the latest analysis, some parts of the country – and notably parts of the Chicagoland area still have homes “underwater.” See *Index of Citation and Selected Citations*. In the last two decades, the United States has seen a large loss in the retail market as well, with closure of major anchor tenants in malls and with malls themselves closing. See *Index of Citation and Selected Citations*. A study cited in Footwearnews (See *Index of Citation and Selected Citations*) predicts the closure of 1 in 5 department stores by 2023. As observed by the authors, the great recession and the rise of technological disruption has resulted in fundamental paradigm shifts. A jarring example is the disruption and paradigm shift in spending that Uber and Lyft (etc.) had on the value of taxi medallions. See *Index of Citation and Selected Citations*. Other examples of paradigm shifts include the shift from organic to a demand for locally grown organic foods that is resulting in roof top greenhouses attached to the retail stores, the epic rise of online shopping from brick and mortar stores, the shifts in spending for ever-advanced electronics, artificial intelligence driving and drone delivery of goods, services and people. In other words, the paradigm concepts of car ownership, the way we obtaining clothing, what food we eat and where it comes from, and services is shifting quickly and this shift is showing up in dramatic examples of the decline in retail and mall aligned real estate (i.e., commercial real estate). As a warning, therefore, in interpreting and applying the data – these paradigm shifts must be taken into account when seeking to attract and develop industrial and commercial properties. For example

– should a municipality try to attract a commercial department store that immediately creates entry-level jobs that then quickly fails because the national chain is going bankrupt or explore a risky new company with an industrial distribution warehouse seeking to do drone deliver of goods and services that provides long-term technology skilled jobs? Do not do a linear analysis.

-Where to Go - Options to Expand the Tax Base-

At the beginning, this paper introduced why Cook County had the advantage over other counties in Illinois – the level of assessment. However, the advantage fades with the imposition of ever-higher taxes and ever-higher progressive social requirements imposed on industrial and commercial businesses. The question becomes then, what methods are available to maintain the edge to expand the tax base?

1. The License Example.

Property owners quit claim their property over to local government that include reversionary rights to the original owner. The result would be the creation of an exempt property with a license to the former owner. The intent should be that the industrial/commercial user be relieved from paying property taxes for a time period certain with the local government requiring responsibilities by the tenant. These requirements can be varied and specifically tailored to the municipal needs and the ability to the licensee, which for example can include making license payments that can be a “payment in lieu of taxes”, maintain some form of “jobs quota” or “job quality” criteria, or economic productivity requirement. A variation of the aforementioned need not require a quit claim deed. Instead, government can pool resources to obtain and maintain an industrial/commercial park under a government corporate controlled entity similar to McPier’s contractual agreement with hotels (the hotel merely manages McPier’s hotel). However, the major difference in all these situations should

be the intent to re-enter all of these entities and their property back into the tax base. For example, reversionary rights/leasehold creation should be triggerable by the municipality in event of a failure to adhere to requirements, not just the licensee (i.e., forced re-entry into the tax base).

2. Park Forest/Glenview Naval Housing Example - State Law Abatement Program.

At the state level, a municipality could create an industrial/commercial park and seek a law that creates a ceiling for the amount of taxes over a period of time or some type of graduated rate. This, in effect, becomes a locally controlled partial abatement program – which does result in a tax loss. This type of program should take into account the Theoretical Maximum Tax Base or TMTB in setting goals to graduate or reduce the abatement over time to “graduate” the property back fully into the tax base defusing the tax shock. This is similar to putting stiches on a wound and then taking the stiches out over time to assure that the industrial/commercial properties survive the tax loaded onto them over time.

3. Statewide Department of Special Economic Projects.

A study has suggested that, at the local level, municipalities compete against each other for development. See citations, *South Suburban Economic Growth Initiative*. This competition is exacerbated by the non-uniform incentives available from county to county (see differences in level of assessment). From an assessment standpoint, a unified state level department of special economic projects vested with statutory powers that supersedes home rule (i.e., county authority), but still requiring municipal approval may provide for a more uniform outcome and greater transparency while leveraging local economic development government employees/departments in existence. State level assessments already occur for railroads and pollution control facilities. The Illinois Department of Revenue provides guidance on farmland valuation – so the concept is not foreign or new; further, local county

assessor's offices are already capable of dealing with State level directives, which for example, includes applying partial exemptions against property. For example, Cook County is excluded from assessing railroad property because that is the sole function of the Illinois Department of Revenue. Further, to reduce school district objections, laws may require modifications to exclude special economic projects' property tax dollars from Tax Increment Finance. See *proposed law in appendix*.

- Conclusion - Tailoring Regulations to Maximize Balance for Stakeholder Interests -

Current and proposed laws, especially in relation to incentives, should also be debated especially in light of the example where a surprising number of municipalities declined to join the Cook County Minimum Wage Ordinance requirement. The Lincoln Institute of Land Policy recently cited Chicago as having one of the highest commercial tax rates in the United States. See *Index of Citation and Selected Citations*. Illinois is cited as second in the top ten states with the highest property taxes with the majority of the southern neighboring states doing far better and looking more attractive to businesses and citizens alike. See *Index of Citation and Selected Citations*. It is not surprising that Illinois has lost over 100,000 residents a year including their income. See *Index of Citation and Selected Citations*. In relation to the incentives program, in the last several years upfront expenses have increased to include substantial fees by multiple levels of government (i.e., municipal application fees and county fees could add up to above \$5,000 per application). Aside from fees, incentive properties now have additional new compliance/regulatory requirements. These new requirements include compliance with the County Minimum Wage (includes sick leave), Cook County Living Wage, Prevailing Wage and compliance with all Federal State and Local Labor Laws five years prior to application. Employers with an incentive property must comply with a workforce requirement that forces employers to use a county controlled entity as a quasi-first choice employment agency. The Federal, State and Local Labor Laws compliance requirement essentially extends the statute of limitations period for

employment law violations – that means if the party applied in the year 2000 for an incentive they must affirm compliance since 1995 where most statute of limitations are 3-5 years. The regulations are so onerous that an owner of the incentive property must force a tenant to comply with the new regulations. Although the protection of employees is a laudable goal – the balance of benefits will shift and policy makers must take that into account in making decisions or face continued flight of businesses and jobs – which leads to flight of the very same people these regulations hoped to help/protect. Assuming that tax levies do not fall (they often increase), the assessment point of view is that the addition of more qualitatively assessable properties can assist in lowering the tax burden and policy implementations should consider that.

-Description of Methodology, Incentives Data-

The values described herein and as seen in the foregoing charts were produced with public information. See *Appendix Data*. The total Board of Review final assessed values for all incentive classes were utilized and the market value extrapolated based on 10% level of assessment. These values may include split codes and step up values however, the overall extrapolation is reliable for analysis purposes based on the number of incentive classes countywide. An average overall county tax was extrapolated from the overall County AV and the total County Tax as published by the Cook County Clerk. Total equalized assessed values were produced using the actual state multiplier.

-Index of Citations and Selected Citations-

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 - IDOR, General Guide to Local Property Tax Cycle.
<http://tax.illinois.gov/Publications/LocalGovernment/PTAX1004.pdf>
 - https://www.ilnews.org/news/economy/new-measure-would-craft-economic-development-plan-for-illinois-border/article_5e1247bc-41ab-11e8-bf2d-afbb5eb08496.html
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 - <http://www.chicagobusiness.com/article/20150714/NEWS05/150719929/illinois-losing-more-manufacturing-jobs-this-time-to-tennessee>
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- [http://netinfo.ladbs.org/ladbsec.NSF/d3450fd072c7344c882564e5005d0db4/72f24c5fab8bd39788256a160067e2e2/\\$FILE/Summary%20of%20Parking%20Regulations%20final.pdf](http://netinfo.ladbs.org/ladbsec.NSF/d3450fd072c7344c882564e5005d0db4/72f24c5fab8bd39788256a160067e2e2/$FILE/Summary%20of%20Parking%20Regulations%20final.pdf)
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- <http://www.thefiscaltimes.com/2015/08/14/10-Worst-States-Property-Taxes>
- <https://www.cookcountyil.gov/content/south-suburban-economic-growth-initiative-ssegi>

The data utilized herein is free and available on the Cook County Assessor's Website.

Appendix

Proposed State Level Department of Special Economic Projects

Sec. 11-xxxx. Assessment of Special Economic Projects

The statutory intent of this Act is to create a uniform assessment valuation program to attract and maintain commercial and industrial companies within the State of Illinois. As such, any and all programs designed to reduce the value, either assessed, equalized assessed or market shall be solely under the power of the Department at the exclusion of all county and local government, including reductions based on a level of assessment, unless otherwise stated herein.

Sec. 11-xxxx. Assessment of Special Economic Projects; definitions.

“Abandoned property” means, except as otherwise specified in Section 11-xxxx, buildings and other structures that, after having been vacant and unused for at least 24 continuous months, have been purchased for value by a purchaser in whom the seller has no direct financial interest. Purchase of value shall include all transactions with any government or quasi government entity.

“Aggravated vacancy” means a property that has been marketed for sale or lease and has not been sold or leased for at least 12 continuous months is defined as “abandoned property”.

“Area in need of commercial development” means any area, which satisfies the provisions of Section 11-xxxx.

“AV” means assessed value

“EAV” means equalized assessed value

“In need of substantial revitalization” means an area no less than ten contiguous acres or more than one contiguous square mile in size which is in a state of extreme economic depression evidenced by such factors, as defined in the rules and regulations as promulgated by the Department, among others, as:

- (1) Substantial unemployment;
- (2) A low level of median family income;
- (3) Aggravated abandonment, deterioration, and underutilization of properties;
- (4) A lack of viable industrial and commercial buildings whose absence significantly contributes to the depressed economic and unemployment conditions in the area;
- (5) A clear pattern of stagnation or decline of real estate taxes within the area as a result of its depressed condition;

(6) A manifest lack of economic feasibility for private enterprise to accomplish the necessary modernization, rehabilitation and development of the area without public assistance and encouragement; and

(7) Other factors which evidence an imminent threat to public health, welfare and safety.

“Manufacturing” means the material staging and production of goods used in procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes existing material into new shapes, new qualities, or new combinations and including research and development associated with the production of goods.

“No further remediation letter” means a letter from the IEPA, addressing the entire site, approving or approving with conditions a remedial action completion report.

“Real estate” means not only the land itself, whether laid out in town or city lots, or otherwise, with all things contained therein, but also all buildings, structures and improvements, and their permanent fixtures, of whatsoever kind, thereon, and all rights and privileges belonging or in anywise pertaining thereto. Included therein is any vehicle or similar portable structures used or so constructed as to permit its being used as a dwelling for one or more persons; if such structure is resting in whole on a permanent foundation.

“Real estate used for commercial purposes” means any real estate used primarily for buying and selling of goods and services, or for otherwise providing goods and services, including any real estate used for hotel and motel purposes.

“Real estate used for industrial purposes” means any real estate used primarily in manufacturing, as defined in this Section, or in the extraction or processing of raw materials unserviceable in their natural state to create new physical products or materials, or in the processing of materials for recycling, or in the transportation or storage of raw materials or finished physical goods in the wholesale distribution of such materials or goods for sale or leasing.

“Remedial action plan” means a plan addressing remediation of the entire site, approved by the IEPA pursuant to its site remediation program. The plan must include, as applicable: an executive summary; remediation objectives appropriate for the described planned industrial or commercial use; remedial technologies selected; confirmation sampling plan; applicable preventive, engineering, and institutional controls and monitoring procedures; cost estimates and timetable.

“Site” means, for the purposes of a brownfield provisions of this section, the real estate which is remediated and developed for industrial or commercial use. The site must be identified by property index number, and must be delineated by an accurate legal description if it comprises less than the whole of any parcel at the time of application.

“Site remediation program” or program means remediation of the site as appropriate for the planned industrial or commercial use, according to a remedial action plan approved by the Illinois Environmental Protection Agency (IEPA), pursuant to its site remediation program, under the authority of Title XVII of the Environmental Protection Act.

“Special Economic Project” or “development project” means any property or real estate utilized for redevelopment, rehabilitation, re-occupation, or remediation of a brownfield.

“Substantial rehabilitation”, means the extensive renovation or replacement of primary building systems of the improvement or land, as further prescribed by rule of the Department.

Sec.11-xxxx Special Economic Project Qualification

To qualify as a Special Economic Project, it is necessary that the project be located in an area in need of commercial development in that:

(1) The area is currently designated by Federal, State or local agency as a conservation, blighted or renewal area;

(2) Real estate taxes within the area, during the last six years, have declined, remained stagnant or potential real estate taxes are not being fully realized due to the depressed condition of the area, and/or subject site, or property values as determined by the assessed value (AV) or equalized assessed value (EAV) for the redevelopment area or specific subject site have declined over the last six years, or property values as determined by the AV or EAV are increasing at a rate that is less than the balance of the municipality's AV or EAV for the last six years; or property values as determined by the AV or EAV for the redevelopment area/site are increasing at a rate that is less than Consumer Price Index (CPI) for All Urban Consumers as published by the US Department of Labor for last six years;

(3) There is a reasonable expectation that the development, re-development or rehabilitation of the development project is viable and likely to go forward on a reasonably timely basis if granted Special Economic Project designation and will therefore result in the economic enhancement of the area;

(4) Certification of the Special Economic Project designation will materially assist development, redevelopment or rehabilitation of the area and the commercial development project would not go forward without the Special Economic Project designation; and

(5) Certification of the Special Economic Project designation is reasonably expected to ultimately result in an increase in real property tax revenue and employment opportunities within the area.

(b) Prior to filing a Special Economic Project application with the Department, an applicant must obtain from the municipality in which the real estate is located, or a County Board if the real estate is located in an unincorporated area, an Ordinance or a Resolution expressly stating that the municipality or County Board, as the case may be, has determined that the conditions of Subsections (a)(1)—(a)(5) of this Section are present.

Sec. 11-xxxx. Special Economic Project Application Procedure

Assessment date for Special Economic Projects. The Department shall assess all property Special Economic Projects within this State, as of January 1.

(a) The applicant for the Special Economic Project shall submit an application for the Special Economic Project with its application to the Department.

(b) Notice to Taxing Districts. The applicant for a Special Economic Project shall send notice to all taxing districts that receive property tax revenues from the Special Economic Project.

(1) Notice shall be mailed via certified mail or via a mail carrier providing substantially similar service verifying mailing of the notice.

(2) The taxing districts shall have 45 business days to submit an appraisal of the Special Economic Project. Failure to provide an appraisal shall disbar the taxing district from providing any such appraisal.

Sec. 11-xxxx. Special Economic Project Valuation by Department

(a) The assessment of the property of any Special Economic Projects shall be based upon the value of property defined in this Section.

(b) The applicant shall submit to the department, with or subsequent to the application a fee simple appraisal, which may be retrospective, of the value of the property one year prior to the special economic project is completed.

(c) The value established in subsection (b) shall be maintained for ten years. After ten years, the property shall return to full market value as assessed by the local chief county assessment officer. The applicant may request a renewal at any time during or after the expiration of the special economic project. Any renewal shall follow the same procedure provided herein as a new application.