



FULTON COUNTY TAXPAYERS ASSOCIATION

Non-Profit Advocate Of Lower Property Taxes In Atlanta/Fulton

July 2006

FCTA Seeking To Take Legal Action To Stop Further Taxing Our Over-Taxed Taxpayers!

At a time when the City of Atlanta is ranked among "the ten highest tax-burdened cities in America", when the Atlanta Board of Education has just raised its tax millage by 10% to a whopping 22.6 mills, and at a time when Fulton County has one of the highest millage rates among the 159 counties in the State, the FCTA is seeking to take legal action to stop the City of Atlanta Beltline TAD (Tax Allocation District) to prevent further taxation for the taxpayers of Atlanta and Fulton County.

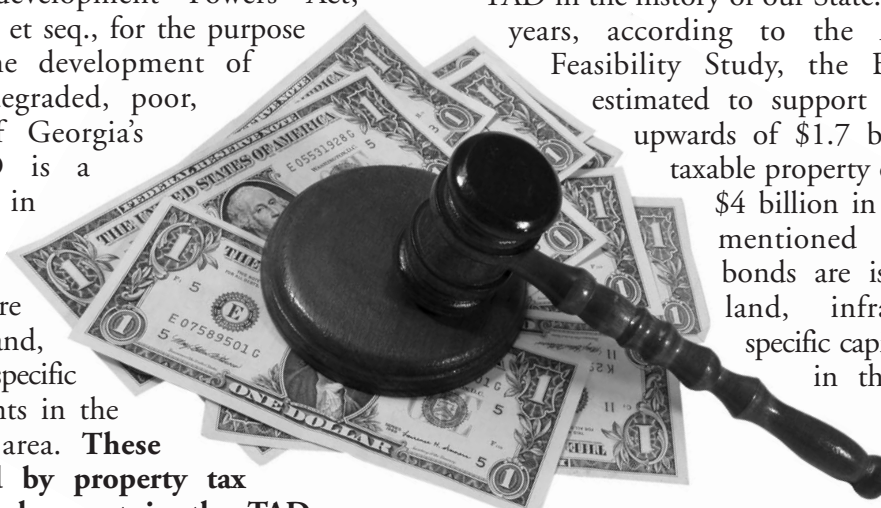
The Background Of Tax Allocation Districts

A Tax Allocation District (TAD) is authorized under State Redevelopment Powers Act, O.C.G.A. 36-44-1 et seq., for the purpose of stimulating the development of environmentally-degraded, poor, blighted areas of Georgia's cities. The TAD is a financing tool, in which tax-free bonds (maturing in 25-30 years) are issued to pay for land, infrastructure and specific capital improvements in the designated TAD area. **These bonds are repaid by property tax revenues as redevelopment in the TAD area emerges, with the property tax revenues going into a separate account for the payment of the interest on the bonds and, eventually, the principal. During the term of the bonds, the TAD property taxes do not go toward paying for the City/County/Schools services. During**

the term of the bonds, the cost of City of Atlanta services – fire, police, parks, etc. – the cost of the Fulton County services – libraries, health services, courts, etc. - and the cost of the Public Schools - are borne by non TAD taxpayers throughout the City of Atlanta and Fulton County.

What Is The Beltline TAD?

The proposed Beltline TAD is a 22-mile loop of abandoned and underused rail lines in the City's urban core, circling the inner-city from Peachtree Hills on the North, to Virginia Highlands on the East, to the Atlanta University Center on the West and to Capitol View Manor on the South. The proposed Beltline TAD is – by far – the largest TAD in the history of our State. Over the next 25 years, according to the Atlanta Beltline Feasibility Study, the Beltline TAD is estimated to support the development upwards of \$1.7 billion in assessed taxable property or, approximately, \$4 billion in market value. As mentioned above, tax-free bonds are issued to pay for land, infrastructure, and specific capital improvements in the Beltline TAD. Property taxes in the TAD area go into a fund to pay the interest on the bonds and, eventually, the principal. **During the 25-year period of the bonds, the cost of City of Atlanta services – fire, police, parks, etc. - the cost of Fulton County services – libraries, health services, courts, etc. – and the cost of the Atlanta Public Schools -**



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will be borne by the non-TAD taxpayers throughout the City of Atlanta and Fulton County. Most of the committed developments – like the Atlantic Station TAD – will comprise Class A office buildings, luxury condominiums and Class A shopping centers. According to the AJC (Page 1, Metro Section, 10/2/05), included among the developers of the Beltline TAD is a developer planning "two huge, expensive condo towers along the Beltline near Piedmont Park" while other developers are planning Class A office buildings, Class A shopping center developments, and additional luxury condominiums.

Proliferation of TADs In Atlanta

The City of Atlanta currently has five TADs, with a total assessed taxable property value of \$995,352,610 (approximately \$2.5 billion in market value), with the Beltline TAD approximating \$1.7 billion. Under the State Redevelopment Powers Act, the total amount of taxes allocated to TADs in the City of Atlanta cannot exceed 10% of the "current taxable value of all property in the City." The only reason the Beltline TAD has not exceeded the cap is that the General Assembly in the last session changed the Redevelopment Powers Act to retroactively approve of the City of Atlanta's methodology of only using real property, not including personal and utility property in calculating the taxable value of the TADs which was in House Bill 1361. According to a City official (who wishes to remain anonymous), "the figures used to calculate the amount of taxes within the Beltline TAD have not been released, but the Mayor is planning to request the 2007 State Legislature to increase the limit to 15% of the tax digest." The TAD fever has even been extended to Fort McPherson, proposed as the next TAD by a member of the City Council.

To Fund Beltline Transit, Will Atlanta/Fulton County Have To Increase Its MARTA Payments?

A key element of the proposed Beltline TAD is public transportation. Yet, the recent "Atlanta Beltline Transit Feasibility White Paper" by the Beltline Transit Panel, Chaired by the highly-respected Dr. Catherine L. Ross, Director of the Center for Quality Growth & Regional Development, Georgia Tech, states:

"Capital costs for developing the Beltline Transit have been estimated to be in the \$1 billion range, based on very preliminary estimates. The Panel's best estimate is that this is most likely to only cover approximately 50% of the capital costs. MARTA is currently conducting an Alternative Analysis of a different transit concept which should provide better information on expected ridership."

Since federal funding for mass transit in the Beltline TAD is essential and dependent on reliable ridership data, it is not in the best interest of the taxpayers to even contemplate a Beltline bond issue without federal funding commitment.

Beltline TAD Is Unfair To The Taxpayers & In Violation of the Laws

The FCTA strongly supports the use of TADs to stimulate development in environmentally-degraded, poor, blighted areas of the City of Atlanta for such purposes as affordable housing for teachers, nurses, police and firemen, etc.

However, the FCTA feels it is unfair and illegal for non TAD taxpayers to pay for the City/County/Schools services to support the luxury condominiums and Class A office buildings and shopping centers that comprise the proposed Beltline TAD. That was never the purpose or intent of the Redevelopment Powers Act (O.C.G.A. 36-44-G-1) which states that for an area to qualify as a TAD, the local governing entity must show that "the redevelopment area on the whole has not been subject to growth and development through private enterprise and would not reasonably be anticipated to be developed without the approval of the redevelopment plan." Given the unusually large number of developers interested in developing luxury condominiums and Class A office buildings and shopping centers, most of the property within the Beltline TAD consists of prime real estate that would be developed without the need for tax incentives.

Basis For Legal Action To Stop The Proposed Beltline TAD:

Of the total property taxes paid by the homeowners of Atlanta, the Tax Commissioner, Dr. Arthur Ferdinand, report that 51.6% goes toward the Atlanta Public Schools. In the calculation of the Beltline TAD allocation increment, the Atlanta School Board's school tax funds are included. Yet, Georgia law clearly mandates that school tax funds be used only for educational purposes. Specifically, Article VIII, Section VI, Paragraph I(b) of the Constitution of the State of Georgia provides: "School tax funds shall be expended only for the support and maintenance of public schools, public vocational-technical schools, public education, and activities necessary or incidental thereto, including school lunch purposes." **Under the Beltline TAD, the Atlanta Public School taxes will go toward paying the interest on the bonds – and eventually, the principal - while the cost of the schools will be borne by non-TAD taxpayers throughout the City of Atlanta.**

Precedents To Support Legal Action

In a letter written to the Atlanta Board of Education, dated November 2, 2005, Attorney and FCTA Member, John F. Woodham, states: "Where a constitutional provision expressly provides that

funds derived from taxes levied and collected may be used only for particular purposes, such funds cannot be utilized for or diverted to any other purposes. *Wright v. Absalom*, 225 GA 6 (1968). Accordingly, the Atlanta School Board's tax funds included in the Beltline TAD must be used only for educational purpose." With the recent increase in the Atlanta Public Schools tax millage, this diversion of huge school tax dollars is particularly egregious.

In his letter to the Atlanta Board of Education, Attorney John F. Woodham further states: "While some may attempt to argue that the redevelopment projects in the Beltline TAD, i.e., land acquisition, park design and construction, transportation, etc., are somehow sufficiently 'incidental' to public education to warrant the funding of such projects through the expenditure of the Board's Beltline TAD tax increment, Georgia law is clear that such general public improvements may not be funded with school tax funds:

1. **DeKalb County School District v. DeKalb County**, 263 GA 879 (1994).

2. **Fulton County v. Fulton County Public School District**, 246 GA. App. 631 (2000).

In both cases, it was held school board funds could not be used to fund road improvements, based on the Georgia's Supreme Court's reasoning in *DeKalb County School District v. DeKalb County* that 'expending school tax funds for the road improvements would stray too far from the District's principal task of educating young people in favor of providing a benefit to all citizens that the County generally has a duty to perform.' Likewise, using the Board's school tax funds to underwrite City green-space, roads and transit costs under the Beltline TAD 'strays too far from the Board's principal task of educating young people.' To the extent the Beltline TAD contemplates using funds derived from the Board's tax levy for non-educational purposes, the Beltline TAD violates Article VIII, Section VI, Paragraph I (b) of the State Constitution."

Conclusion

Based on the opinion of many highly respected attorneys, the Beltline TAD is in violation of the Georgia Constitution. On behalf of the taxpayers of Atlanta and Fulton County, the FCTA plans to take legal action to stop the Beltline

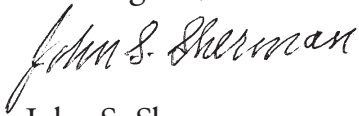
An Appeal For Contributions Toward The FCTA Legal Fund

This is in the best interest of every taxpayer!

If the Beltline TAD proceeds, property taxes for Atlanta and Fulton County residents will significantly increase. The FCTA plans to take legal action to stop the Beltline TAD. However, legal fees – and court expenses – are costly.

I therefore ask each FCTA member – their friends and neighbors – to please contribute toward the FCTA legal fund.

Kind regards,



John S. Sherman
President

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If you prefer, you can charge your donation on-line at www.fcta.us

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