NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
NAIOP OF OHIO

2016 Legislative Highlights

Sub House Bill 463 – Exempt Property-Value Calculation

During a 2014 board meeting, the NAIOP Ohio identified a problem related to how county auditors were calculating the exempt value of improved property subject to a community reinvestment area exemption. Additionally, the board sought to clarify the calculation of the exempt value of property subject to a brownfield remediation exemption. Those discussions led to a proactive effort by NAIOP Ohio to initiate legislation to clarify the scope of community reinvestment area property tax exemptions for renovated buildings and to clarify the scope of property tax exemptions provided to developers that secure covenants not to sue after cleaning up brownfield properties. NAIOP Ohio worked with Representative Jonathan Dever (R – Cincinnati) to pass this language in Sub House Bill 463.

The legislation specifies that the base value for purposes of the covenants not to sue exemption is the value in the year in which remedial activities began. The legislation also specifies that the community reinvestment area exemption for remodeling or rehabilitation is for the increase in value subsequent to the beginning of the remodeling or rehabilitation.

Both of these changes will make it clear that these exemptions have a scope similar to that of other key tax incentives programs – enterprise zone exemptions and tax increment financing exemptions. These edits also will eliminate confusion and uncertainty, which create obstacles to redevelopment and create administrative challenges in county auditors' offices.

As the primary proponent for this change, NAIOP Ohio testified in support of the bill before the House Ways and Means Committee and Senate Finance Committee, and met with key legislators to secure passage of this language during the 131st General Assembly. Sub House Bill 463 was signed by Governor Kasich on January 4, 2017.

Senate Bill 257 – Recorded Real Property Instruments

NAIOP members assisted the Ohio State Bar Association, and bill sponsors Senator Bill Seitz (R – Cincinnati) and Senator Michael Skindell (D – Lakewood) to amend Ohio's curative statute bringing it in line with curative statutes of other states around the country. Senate Bill 257 was signed by Governor Kasich on January 4, 2017.

Senate Bill 257 creates a presumption of validity of recorded real property instruments, reduces the time period for curing certain defects related to those instruments to four years, and provides constructive notice for those instruments. These changes expand the curative statute's application and will facilitate real estate transaction in Ohio.

Prior to these efforts, when an instrument is of record for twenty-one years, the instrument is presumed valid despite errors and defects. Unfortunately, the statute was rarely applied to uphold the validity of instruments of record due to its extended cure period. The next closest state has a ten year cure period. This outdated language has resulted in cumbersome transactions and unwarranted litigation involving Ohio real property instruments. Senate Bill 257 modernized Ohio's real property law to promote the validity of recorded documents and the marketability of title, which is good for the real estate business in Ohio.

Senate Bill 257 amended R.C. 5301.07 to provide that when a real property instrument has been of record for four years, certain defects will be deemed cured.

2020 Tax Policy Study Commission

NAIOP of Ohio worked with a coalition of developers, preservationists, communities and others to advocate for the continuation of the Ohio historic tax credit (HTC), which was under scrutiny by the 2020 State Tax Study Commission. The Commission released its report in late October; the report supported the continuation of the credit.

NAIOP Ohio met with 2020 Commission member and economic development advocate Representative Kirk Schuring (R – Canton) at the annual board meeting in November. During which, the board had a productive conversation about the commission's report on the HTC. Representative Schuring indicated that General Assembly sees the value in the HTC, and he does not believe that credit will be at risk of being converted to a grant or eliminated during the 2017-2018 biennial budget process.

Sub Senate Bill 235 – Property Tax

NAIOP Ohio actively supported efforts from the Cincinnati Chamber, Senator Beagle (R- Tipp City) and Senator Coley (R – Liberty Township) to address a deterrent to private developers who want to ready sites for business development. Despite undergoing modifications in the House of Representatives, Sub Senate Bill 235 adds an additional economic development tool to the tool box, while assuring that it is responsibly used in a local setting.

Sub Senate Bill 235 furthers economic development efforts in Ohio by removing a disincentive to private development by lowering this initial cost burden. Sub Senate Bill 235 authorizes local governments to approve property tax exemptions for the increase in value of property planned for commercial or industrial development while the property is in the pre-development stage. The exemption terminates once an occupancy permit is issued, the title is transferred, disqualifying zoning regulations are imposed, or any commercial, industrial, or agricultural operations occur there.

While in House Finance Committee, the following changes were made to the bill to address staunch opposition raised by the bill's opponents: (1) Requires property taxes to be current as a condition for the exemption (2) Imposes a three-year tax penalty on property subject to the exemption if the title is transferred before any improvements are made or if any commercial, industrial, or agricultural operations occur before an occupancy permit is issued. Additionally, Sub Senate Bill 235 requires the property owner to apply for approval from the local jurisdiction for the exception. While the changes made to Sub Senate Bill 235 add additional steps for a developer to take, it still provides a new incentive to use while developing sites for commercial or industrial use. In spite of efforts by local governments, county commissioners, and others to kill the bill it was signed by the Governor on December 27.