

City of Issaquah
Public Works Department

Newport Way/Maple Street Road Improvement Project
<< Local Improvement District #21 >>

Summary of Assessment Deferral Options and Mitigation Agreements
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Senior Citizen Deferral
[RCW 84.38]

Who Qualifies?

The 'claimant' must be at least ⁶⁰~~61~~ years old, or must be retired due to physical disability, or must be a surviving spouse at least 57 years old. The household income must be less than \$30,000 per year. The claimant must own the house or residence and it must be his/her principal place of residence.

Procedure

To defer an assessment, the claimant must file a form with the County Assessor's office no later than 30 days before the assessment is due. Thereafter the assessor determines whether the claimant is eligible for renewal. It is the claimant's responsibility to file the paperwork necessary for renewal of the deferral each year.

Collection and Payment

When assessments are deferred under RCW 84.38, the State acquires a lien on the property for up to 80% of the equity value of the property, which bears interest at 8% per year. The State pays the City for yearly assessments deferred under this program.

Length of Deferral

The length of deferral is indefinite, with deferred assessments and interest payable to the State upon sale of the property, death of the claimant (except when there is a surviving spouse), condemnation of the property or if the claimant ceases to reside in the residence.

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Economic Hardship Deferral
[RCW 35.43.250 & 35.54.100]

Who Qualifies?

Economically disadvantaged property owners, as defined in the formation ordinance, qualify for a deferral of yearly assessment payments. Also eligible for this deferral are other persons who are responsible for the payment of L.I.D. assessments under the terms of a contract to purchase, mortgage, deed of trust transaction or lease (all recorded).

Economically disadvantaged property owners or other persons [Claimant] eligible for the deferral are those property owners or other persons whose incomes meet the requirements of IMC 13.92.020 (C).

Procedure

After the final assessment roll is approved by the Council and at least sixty (60) days before the first yearly assessment is due, the City will notify all property owners of their property owners and advise them that deferral options are available. If a Claimant wishes to take advantage of one of the options, he/she will contact the Finance Department and file an application.

Collection and Payment

If an application for deferral under RCW 35 is approved, the Claimant's yearly assessment is paid from the L.I.D. guaranty fund, which then has a lien on the property in the amount of the cumulative yearly assessment.

Length of Deferral

Statutes limit the total accumulation of the lien on the property to four yearly installments. After this has occurred, the Claimant must then begin to pay the yearly installments from that time forward.

Deferred assessments remain as a lien on the property until paid, with interest at 8% per year. This must occur:

- a) before the end of the L.I.D. assessment period; or
- b) upon the sale of the property; or
- c) upon the death of the person or property owner to whom the deferral was granted

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Single Family Development Rights Purchase

Who Qualifies?

The owner of any property or group of properties occupied by an existing single family dwelling.

Procedure

The property owner enters into an agreement with the City in which the property owner agrees that no change in land use will occur (ie, the property will continue to be used for only those uses permitted in a single-family residence). The City will then make the property owner's yearly assessment payments from a fund designated for that purpose.

This agreement will be recorded and run with the land. The property owner will pay recording costs and an administrative fee.

Collection and Payment

At such time that the current or future property owners change the land use from those uses permitted in a single-family residence, all of the assessment payments made by the City, plus an administrative fee, to that date would become due and payable within a specified time frame. The current or future property owners would then become responsible for any remaining yearly assessment payments.

Length of Agreement

At the end of the assumed useful life (25 years) of improvements constructed under the L.I.D., all agreements under this option will terminate. There is no obligation to pay assessments retroactively. If the land uses change after that date. The maximum amount due and payable will be the total of all yearly payments that the property owner should have made over the L.I.D. assessment period.

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Model Mitigation Agreement

Who Qualifies?

Any property owner in the L.I.D. boundaries, except those who enter into agreements under the single-family development rights purchase option described above.

Procedures


At any time up to six months (180 days) after adoption of the Final Assessment Roll, the property owner may enter into an 'mitigation reserve' agreement with the City. These agreements will be processed by the Administration and approved by the Council.

Basic Premises of Agreement

- ✓ The property will be assumed to generate a certain number of vehicle trips per day based on nationally recognized trip generation manuals for the assumed highest and best use of the property.
- ✓ Provided that the property owner pays his/her yearly assessment payments in a timely manner, he/she will be considered to have fully mitigated traffic impacts from the property on all streets and intersections improved as a result of the L.I.D., up to the assumed number of vehicle trips generated.
- ✓ If a proposed land use will generate more than the assumed number of vehicle trips per day, the property owner will be required to mitigate any additional traffic impacts for streets and intersections improved as a result of the L.I.D.. However, if a proposed land use will generate less than the assumed number of vehicle trips per day, the property owner will not be entitled to a 'credit' or offset for the assessments paid.
- ✓ The construction of L.I.D. improvements will impact the level of service (LOS) of other intersections and roadways within the L.I.D. boundary. If the proposed land use generates traffic impacts at an intersection not improved as a result of the L.I.D., but within the L.I.D. boundary, the property owner will be required to maintain pre-development LOS at the intersection but will not be required to improve the LOS at the intersection beyond pre-development conditions.
- ✓ These agreements will run with the land and will be recorded. The property owner will pay recording costs and administrative fees.

Length of Agreement

Applications for development permits must be made within eight (8) years of the effective date of the agreement. The terms of the agreement will continue beyond the eight (8) years provided that development permits are being actively pursued.

DATE: April 8, 1993
TO: John Carpita, Issaquah City Engineer
FROM:  Jessica Rickard, City Attorney's Office
RE: L.I.D. No. 21; Assessment Deferral Options

Per your request, the following is a brief summary of the two assessment deferral options available to the City.

I. Assessment Deferral Under RCW 35.43.250 and 35.54.100:

The first assessment deferral option arises under RCW 35.43.250 and 35.54.100.

A. Who Qualifies?

RCW 35.43.250 allows cities establishing L.I.D.s to defer assessment collection for those:

"economically disadvantaged property owners or other persons who, under the terms of a recorded contract of purchase, recorded mortgage, recorded deed of trust transaction, or recorded lease are responsible . . . for the payment of local improvement district assessments, and in the manner specified in the ordinance qualify for such deferment, upon assurance of property security for the payment thereof."

As the underscored sections indicate, this deferral statute provides cities with some discretion in determining who qualifies for assessment deferral. Economically disadvantaged persons as well as "other persons" may qualify for assessment deferral. Cities need only specify what such qualifications are in the ordinance establishing the L.I.D.

B. Collection and Payment

With respect to collection of such assessments, RCW 35.54.100 provides that whenever assessments are deferred pursuant to RCW 35.43.250, the amount of the deferred assessments shall be paid out of the local improvement guaranty fund. Once payment is made via the fund, the fund has a lien on the property. However, deferral cannot continue indefinitely; essentially, the statute limits lien accumulation to four installments, or four years.

Finally, the statute provides that deferred assessments are due on the earliest of the following dates:

1. Upon the date and pursuant to conditions established by the City; or
2. Upon the sale of the property which has a deferred assessment; or
3. Upon the death of the person to whom the deferral was granted.

While it would appear from the inclusion of the above payment provisions that the City could continue to defer assessments beyond a four year period, for example, until the property is sold, in fact, the statute drafters intended to limit the deferral to four years. Once four years of assessment deferrals have accumulated, payment must then proceed under the three options listed above.

II. Assessment Deferral Under RCW Chapter 84.38:

RCW Chapter 84.38 was enacted specifically to permit retired persons to defer payment of special assessments and property taxes on their residences. It therefore has limited applicability.

A. Who Qualifies?

Those persons who wish to defer special assessments are termed "claimants." A claimant can only defer payment on up to 80% of the equity value of the claimant's residence. A claimant must also meet the following statutorily prescribed qualifications:

1. Except for the income limits provided for therein, the claimant must meet all requirements stated in RCW 85.36.381 to wit:
 - a. The assessment must be imposed upon a residence which was the claimant's principal place of residence as of 1/1 of the year in which the claim is made; provided, that the claimant may, under certain conditions, transfer his/her status to a replacement residence;
 - b. The claimant must own the residence or unit; and

c. The claimant must be at least 61 on 12/31 of the year in which the claim is made, or must be retired due to physical disability; provided, that surviving spouses who are at least 57 may also qualify.

2. The claimant must have a combined disposable income (as defined in RCW 84.36.383) of \$30,000 or less.
3. The claimant must own the residence on which the assessment is being imposed. An ownership share in cooperative housing, a lease for life, a life estate, or a revocable trust do not meet the "ownership" test.
4. The claimant must maintain sufficient fire and casualty insurance.
5. The claimant must have opted for payment of assessments on the installment method, if such method was made available.

B. Procedure

To defer an assessment, the claimant must file a form with the county assessor's office no later than 30 days before the assessment is due. Thereafter, the county assessor determines whether the claimant is eligible for deferral. Each year, it is the responsibility of the claimant to file the papers necessary for renewal of assessment deferral.

C. Collection and Payment

When assessments are deferred under this statute, the state acquires a lien on the property in question for up to 80% of the equity value of the property, of which amount shall bear interest at 8%.

Cities are guaranteed receipt of any assessments deferred under this statute through the state department of revenue. The department must pay such deferred assessment amounts to the city treasurer.

The deferred assessments are payable upon:

1. Sale of the property in question;
2. Death of the claimant, except when a surviving spouse exists;

3. Condemnation of the property in question;
4. Claimant ceasing to reside permanently in the residence in question;
5. Failure to meet the qualifications specified for claimants.

III. Comparison Summary

Under RCW 35.43.250 and 35.54.100 (Option A), the deferral provisions have broader applicability: the City can establish by ordinance who qualifies for assessment deferral. In contrast, under RCW Chapter 84.38 (Option B), the statute itself establishes who qualifies for assessment deferral, essentially, low income retired persons with permanent residences.

Option A is administered by cities. The state has no involvement with granting assessments, collection, or payment. In contrast, under Option B, except for receipt of deferred assessments, cities have no involvement. The state is responsible for collection and guaranteeing payment to cities.

Under Option A, a city's local improvement guaranty fund is on the hook for any deferred assessments; however, under Option B, the City is assured receipt of all assessments due as the state is obligated to pay city treasurers for deferred assessments.

Finally, under Option A, assessments may only be deferred and accumulated for up to four years, whereas under Option B, assessments may be deferred and accumulate up to an amount equal to 80% in value of the residence in question.

Having summarized the pros and cons of each assessment deferral method, the remaining question is whether both options are available to the City. I have not found any provision restricting cities from exercising both options. Consequently, claimants who qualify under RCW Chapter 84.38 may wish to pursue assessment deferral in accordance with that statute. In addition, the City may wish to provide other persons, who might not qualify as "claimants" under Chapter 84.38, with the option of deferring assessments through the City.