

ALL THAT GLITTERS ISN'T GOLD:

Property Tax Abatements in Jersey City

By Naomi Mueller Bressler and Carolyn Topp

INTRODUCTION

Across the country, governing bodies often use property tax abatements to attract businesses and jobs to their area. Intended for rundown or otherwise unattractive areas, questions arise: Has their original purpose been subverted as they have proliferated in areas no longer in need of assistance? Does the new development add enough property tax ratables to the municipal tax base to make up for 20 to 30 years of abated property taxes? Are owners of non-abated property in the municipality on the hook for taxes not paid by owners of abated property? Ultimately what is the impact on the municipality itself, neighboring municipalities, school districts, counties and the state?

Jersey City is an excellent case study of long-term tax abatements. Some of the first abatements granted in New Jersey were in Jersey City. Its governing body – regardless of political persuasion – has been enthusiastic about them and has granted nearly all proposed. This report identifies nine problems with New Jersey's long-term tax abatement law and Jersey City's abatement policies and makes recommendations for how to resolve these problems.

NJPP would like to thank Carolyn Topp for her work on this report. She is a senior executive for a national internet cata-

logue retailer and makes her home in the New York area. We are also deeply indebted to Peter Yerkes for his extraordinary editorial skills.

— *Mary E. Forsberg*
Interim President

BACKGROUND

Jersey City's Gold Coast, where skyscrapers rise above what was recently a wasteland of rundown factories, abandoned rail yards and rotting piers, is a success story in urban redevelopment. Today, Jersey City's waterfront is lined with office buildings bearing some of the proudest names in American business, and with luxury condominiums offering health clubs, restaurants and swimming pools. Almost 18 percent of the city's nearly 242,000 residents live or work in this Wall Street West, enjoying newly paved sidewalks and stunning views of Manhattan, the Hudson River and the Statue of Liberty. This revitalization has earned the city the nicknames of the Gold Coast and Manhattan's sixth borough.

Jersey City officials proudly take credit for much of the area's turnaround. Because they have provided generous property tax abatements to developers building in Jersey City, officials say

real estate giants including Donald Trump, K. Hovnanian and the LeFrak Organization have invested hundreds of millions of dollars there.

Jersey City is not alone. Cities throughout New Jersey, as well as throughout the country, use tax abatements to attract businesses and jobs to their area. But as budget shortfalls continue to force local and state governments to eliminate services and reduce their staffs, the decision to allow certain companies and people to pay less than their share of taxes raises fundamental questions of fairness. Tax abatements to large, for-profit companies and high value condominium projects leave property owners without abatements shouldering a greater share of the overall tax obligation. Because local school systems get no tax revenue from abated properties and counties get only a small portion, budgets for school and county governments are squeezed. Both get far less than they would if developers were paying their full share of taxes on unabated property. Local officials, with no responsibility to county government or school districts, express little concern.

These problems seem even more glaring since there is no conclusive evidence that tax abatements work. Taxes represent only one of a number of factors business executives consider when deciding where to locate, largely because taxes represent a small percentage of companies' total costs of doing business. Other services, such as access to a well-educated workforce and quality transportation, tend to be more significant factors.

This study of tax abatements in Jersey City will show the need for strict state oversight, enforcement and standards to ensure that decisions to grant tax abatements are necessary and benefit all taxpayers. This is especially important as local government budgets come under greater pressure than they have in decades.

For all of these reasons, Jersey City makes an excellent case study. The city offers sufficient geographic advantages and government incentives to attract almost any developer, with perhaps its most appealing feature being its location. In addition, Jersey City has benefited from an effective use of public money to create one of the best transit networks in the Northeast. The city offers a fast commute to and from Manhattan and other cities throughout northern New Jersey.

THE NUTS AND BOLTS OF TAX ABATEMENTS¹

The Long-Term Tax Exemption Law of 1991 allows municipalities to grant property tax exemptions for redevelopment projects and new housing projects. The exemptions can last for as long as 30 years from when the project is completed or 35 years after the tax exemption agreement is signed, whichever is less. Instead of paying conventional property taxes, abatement recipients make an annual payment, known as a payment in lieu of taxes, or PILOT, to the municipality. Since 2004, five percent of that money must be paid to the county. The local school district does not receive any of the money. The amount of the PILOT is negotiated but can either be 2 percent of the total cost of the project or about 15 percent of the project's annual gross revenue, depending on the terms of the agreement. Although the law limits the amount of dividends or profits a project accepting an abatement can make, none of the hundreds of abated properties in Jersey City have ever made too large a profit as defined by law. The law requires that profits considered excessive be given to the municipalities.

Tax abatements must be approved by ordinance, after a public hearing on the topic. Public notice of the hearing must be published in the municipality's official newspaper. Once the agreement is in effect, there are no further publication requirements, unless the agreement is transferred or modified.

ABATEMENTS, ARE THEY NEEDED?

Across the nation, abatements are seen as something of a riddle. The advantages seem intuitive. In a kind of real estate arms race, a city believes it can lure new development – along with new revenue and jobs – by offering greater abatements than its neighbor. Jersey City is not the only municipality in New Jersey or the United States to grant generous tax abatements in areas likely to thrive without the incentive. Similar situations occur in both large and small cities including Manhattan, Philadelphia and Ypsilanti, Michigan. A study published in *Economic Development Quarterly* found that 35 states allowed for some form of tax abatements in 2004.² Jersey City uses

abatements aggressively, with many going to deep-pocketed developers who build luxury condominiums or to powerhouses in the American financial industry.

Many economists believe that although tax abatements may help companies decide to locate in a specific area, they do not convince executives to choose one metropolitan area over another. Even if tax abatements do help lure a company to a specific city, it is difficult to determine whether the benefit – a small increase in the tax base and the possibility of new jobs – outweighs the cost of providing municipal services to that business. It is more difficult, if not impossible, to determine whether another company may have been willing to locate in the same spot without an abatement, therefore generating even more tax revenue.

Jersey City's waterfront is a good example of an area where abatements may have been needed to spur development in the late 1970s and 1980s but are likely no longer necessary. In the early part of the 20th century, Jersey City was a thriving transportation and manufacturing center. However, as large industrial companies throughout the Northeast began moving their businesses to other parts of the country and world, Jersey City suffered. Nationally known companies including Lorillard Tobacco, American Sugar Refining, Dixon Crucible and Colgate-Palmolive severely cut production or closed plants entirely, leaving abandoned buildings and fewer jobs. Between 1950 and 1980, Jersey City's population declined by 25 percent, from 299,017 to 223,532.

However, since the 1990s, Jersey City's waterfront has undergone a dramatic revitalization, as the city's economy shifted from industrial to financial and high-end residential. Today, many believe Jersey City is one of the most sought after spots for development in the New York metropolitan area. A 2008 advertising campaign by Hartz Mountain Industries, a developer of commercial real estate, illustrates this point. In its campaign, the company compared the costs of leasing a 50,000-square-foot office in Manhattan to the same size space in the Meadowlands, which includes the Jersey City waterfront. In its ad, Hartz Mountain claimed the unidentified company will save nearly \$60 million over 10 years by moving only six miles.

Real estate costs in Jersey City are generally one-third the price of real estate in Manhattan, making Jersey City an attractive

alternative for companies looking to cut costs. This can be especially true in today's economy. Vacancy rates are rising everywhere and are expected to continue to climb as companies cut back on space to meet their reduced staff levels. Yet Jersey City and other areas close to New York are expected to fare better than those in Manhattan because of the area's lower real estate costs, according to Marcus & Millichap, a brokerage firm. Despite this, Jersey City officials continue to grant tax abatements under a program originally designed to encourage skeptical developers to take a financial risk by investing in blighted urban areas.

Consider this example. In 1999, the Jersey City City Council granted Sugar House Urban Renewal Company a 20-year tax abatement to convert the 136-year-old American Sugar Refining Company warehouse into approximately 65 market-rate condominiums. Under the terms of the abatement agreement, Sugar House Urban Renewal Company agreed to pay 15 percent of its annual revenue, an administrative fee of 2 percent of the previous year's revenue to the city's general fund and a one-time \$1,000 fee for each condominium it built for recreation or another municipal public service.

The units, which range in size from 1,000 to 2,000 square feet, are advertised as selling for between \$600,000 and \$1.3 million and had a median sale price of \$800,000.³ Despite the hefty price tags, Sugar House condominium owners pay only a fraction of the taxes paid by their neighbors with properties that are not abated. In 2007, all of Sugar House's condominium owners paid a total of \$695,477 to Jersey City (\$39,066 in taxes and \$656,411 in payments in lieu of taxes or PILOTs). Had they paid conventional taxes, the owners would have paid \$1,627,108 or \$931,631 more than they did. The city would have received \$746,845, according to information compiled using online data. The county, which received 5 percent of the PILOT, would have received \$413,741. The Jersey City School District, which got nothing from the Sugar House agreement, would have received \$455,965. An additional \$10,556 would have been paid to the county's open space fund.⁴

In addition to the PILOT, the state allows municipalities to require property owners granted abatements after 2003 to pay \$1,500 per residential unit and \$1.50 per square foot of commercial space to the city's Affordable Housing Trust Fund.⁵ Several attempts to find out how money from Jersey City's

housing fund has been spent and how much money remains in the fund have gone unanswered. This information is not available online. Assuming the fund has received money from all residential and commercial properties with abatements since 2003, the total must be substantial.

Abatement recipients in Jersey City are also required to make a prepayment equal to their annual PILOT. Because the city does not need to return the prepayment until near the end of the life of the abatement and does not pay interest on it, the money essentially serves as an interest-free loan the city can use however it wants. Often, it is used to plug a budget gap and prevent an increase in taxes. Jersey City officials concede that the city's abatement policy significantly cuts revenue for the county and school district but say that city residents reap the benefits. Because the city is paying less in county tax, the responsibility is shifted to the owners of non-abated properties throughout Hudson County. The same can be said for the cost of the city's school district. Jersey City taxpayers are responsible for only \$86.1 million of the district's \$625.9 million budget for the 2009 fiscal year. The state pays 76.3 percent, or \$477.8 million, of the district's budget. The rest comes from federal sources.⁶ Essentially, taxpayers throughout Hudson County, and throughout the state, are underwriting Jersey City's abatement program.

Touted as one of the city's most luxurious condominium projects, Sugar House has a number of advantages – many of which would have been a powerful draw even without abatements. Conveniently located on Washington Street, the building is within walking distance of the New York Waterway terminal, with ferry service between Jersey City and Manhattan. The condominiums are also within walking distance of the Exchange Place Station, which has stops for the PATH trains to Manhattan and the Hudson-Bergen Light Rail, with service to Hoboken and other communities along the Hudson. The location also offers extraordinary vistas. Many units have unobstructed views of the Manhattan skyline, the Statue of Liberty, Liberty State Park and the upper New York Bay.

In addition to location, the building offers luxury features that would appeal to any well-to-do buyer. They include a 24-hour doorman, a concierge, an underground parking garage, a private walkway along the New York Harbor and a health club with sauna and steam room. Each unit has granite countertops, stainless steel appliances and oak floors.⁷

Of course the Sugar House project is only one example of the deals being given to the developers of luxury condominiums and high-priced office space along Jersey City's waterfront. In the past 25 years, Jersey City officials have approved countless long-term tax abatements. City officials say they do not know the number of abatements that have been granted, which abatements have expired or how many projects have been approved without an abatement. This means they lack the most basic information about the scope of the program or its effectiveness.

They do know, however, that 134 abated projects are currently making annual payments to the city and that 31 abated projects are in the process of being built. The city has granted another 21 abatements for projects that are not yet under construction. Although most of the abated projects are along the city's waterfront, developers have also recently received abatements for projects to redevelop Journal Square, once the focal point of Jersey City.

NEW JERSEY'S ABATEMENT LAW

The foundation for Jersey City's abatement program was laid in 1961, when New Jersey enacted the Urban Renewal Corporation and Association Law in an attempt to revitalize the state's urban areas. Better known as Fox-Lance, the law allowed qualified municipalities – or municipalities with “blighted areas” – to grant 15-year tax abatements to developers building in blighted areas. To qualify as blighted, an area had to be “sub-standard, unsafe, unsanitary, dilapidated, or obsolescent,” significantly “lacking in light, air or space,” have been vacant for 10 or more years or house a manufacturing or industrial firm that had closed.

Under Fox-Lance, abatement recipients paid the municipality either 15 percent of the annual gross income from the property or 2 percent of the total cost of the project, depending on the terms of the negotiated agreement. The abatements lasted for whichever was less – 15 years from the project's completion or 20 years from the signing of the abatement agreement.⁸ According to the statement accompanying the bill, Fox-Lance was adopted “to encourage private investment in blighted and slum areas” and “to promote balanced redevelopment” of the state's municipalities. However, by the late 1970s, few New Jersey cities, with the exception of Newark and to a lesser extent Jersey City, had used Fox-Lance to promote redevelopment. A 1978 study commissioned by the state reported that

Fox-Lance was used to redevelop 16 industrial projects in Jersey City but that the impact on the city's tax base had been minimal.⁹

Since its adoption, the long-term abatement law has undergone a number of changes. The most notable came in 1992, when the Legislature replaced the term "blighted areas" with "areas in need of redevelopment." This expanded the areas where abatements could be used within cities. In July 2003, the law was changed again, this time to require that counties receive 5 percent of the annual service charge from abatements adopted after that time. The 2003 amendment also gave municipalities the authority to require developers building anything but affordable housing to contribute to the municipality's Affordable Housing Trust Fund.¹⁰ Under the law, municipalities can require developers to make a one-time contribution of \$1,500 per housing unit and \$1.50 per square foot of commercial space to the housing fund.¹¹ Before the law was changed in 2003, contributions from abatement recipients in Jersey City were deposited into the city's general fund.

New Jersey law also allows municipalities to grant short-term, five-year tax abatements. These abatements are generally given to residents making improvements to their own homes.

ABATEMENTS AS A TOOL FOR DEVELOPMENT

It was not until the law was changed in 1992 that New Jersey's cities began making widespread use of tax abatements to encourage companies to build. Jersey City was no exception. Although the city offered tax abatements as early as the 1970s, it was not until the 1992 revisions that city officials awarded them with vigor.

Significantly, Jersey City's renaissance began in the 1980s. The city's nicknames – The Gold Coast, Wall Street West and Manhattan's sixth borough – were earned before the use of abatements became widespread in Jersey City. In December 1999, when Goldman Sachs announced its purchase of the last remaining parcels of the old Colgate factory, *The Star-Ledger* reported that the purchase meant that six of the country's eight largest financial firms had a presence in Jersey City. Goldman Sachs, in fact, paid more per acre than had ever been paid in New Jersey.¹² The city's revitalization and shift from an industrial center to a financial one continued throughout the

1990s and 2000s. Jersey City's revitalization received another boost after several firms relocated to Jersey City after the Sept. 11, 2001 attacks in Manhattan.

However, by 2001 a handful of local residents began to complain that Jersey City was granting too many tax abatements and specifically questioned whether abatements were needed to attract developers to prime locations on or near the waterfront. These residents also became concerned about city officials' pattern of granting abatements to developers who later contributed to their political campaigns. Although the City Council considered banning the practice in 2007, the proposal was rejected.¹³

Residents were not the only group concerned by the abatements. Four of Jersey City's neighbors, upset that the city's policy left them shouldering a larger portion of Hudson County's taxes, filed a series of tax appeals against Jersey City and abatement recipients. In the appeals, the municipalities – Secaucus, North Bergen, Bayonne and Hoboken – asked the court to invalidate the abatements because they violated certain technical provisions of state law. In 2004, the court ruled that the property owners targeted in the appeals should pay a one-time \$1.2 million settlement. That money was shared by the four municipalities. As a result of the appeals, the law was amended by the state to require that 5 percent of the PILOTs received by a municipality be paid to the county. Jersey City's more than \$82,000 legal bill for defending itself in these appeals was paid by Samuel J. Lefrak, one of the biggest land owners and developers in the city. Lefrak had received abatements for several of his Jersey City properties.¹⁴

In 2001, the New Jersey Department of Community Affairs (DCA) hired the accounting firm Arthur Andersen to study Jersey City's government. The state specifically asked the firm to analyze the city's abatement program, as well as a number of Jersey City departments, authorities and other policies. DCA officials said they hoped the report "would be useful as a blueprint for reform."¹⁵ Overall, the study found the city suffered from a lack of comprehensive planning and recommended changes it said would make Jersey City government more efficient and effective.¹⁶

The firm recommended the city make a number of changes to its tax abatement policy. More importantly, Andersen questioned whether the city, attractive to developers for a

number of reasons other than tax abatements, needed to offer abatements at all. The advantages cited by the firm remain true today. They are:

- In addition to abatements, Jersey City companies received many other financial incentives. These include a 50 percent reduction in the state sales tax through the state Urban Enterprise Zone (UEZ) program and possible eligibility for grants of up to 80 percent of the amount that a company withholds from their employees for their state income taxes through the state Business Employment Incentive Program (BEIP).
- Jersey City's proximity to New York makes it attractive to companies priced out of New York City. Rents in Jersey City are generally one-third of what they are in Manhattan.
- Redevelopment began years before the city began granting tax abatements on a large-scale basis, suggesting that tax abatements are not the main reason business executives have located in Jersey City.
- Now that so many developers have chosen Jersey City, it may be less necessary to grant abatements for new projects.

The report specifically recommended that Jersey City change the way it calculates whether the benefit of an abatement outweighs its cost and that it "continuously re-evaluate whether or not tax abatements are still necessary to lure development." Andersen also said it was concerned that "county and school districts [were] not sharing in gains from the tax abatement agreements." Although the Jersey City City Council has considered sharing a small portion of its abatement money with the local school district, it has not done so. Questions and concerns about the city's tax abatement policy have been raised several times in the nearly eight years since the report was released. In March 2002, less than one year after the report was issued, then-Mayor Glenn Cunningham, a Democrat, issued an executive order calling for "a detailed, critical evaluation of all applications for long-term tax exemptions." The order said abatements should be judged on a case-by-case basis. However, like mayors before and after him, Cunningham supported most abatement agreements. The issue was taken up again in the summer of 2004, this time by Louis Manzo, a Democrat who then represented Bayonne and part of Jersey City in the New Jersey Assembly. Manzo, a frequent critic of Jersey City's

administration generally and its tax abatement policy specifically, said firms granted abatements were ignoring the terms of their agreements.¹⁷

Despite widespread criticisms, Jersey City's reliance on tax abatements has continued to grow and its tax abatement policy has remained relatively unchanged. In 1990, the city collected \$6.6 million, less than 3 percent of its total budget, from PILOTs; in 2008 it received \$80 million, or 17 percent of its budget from them. Next year, James Foley, a fiscal analyst responsible for long-term tax abatements in the city, said he expects Jersey City will receive \$89 million in PILOTs. Meanwhile, the county has received only a fraction of this money and the schools have received none.

SHORT-COMINGS OF CURRENT LAW

The state statutes sound reasonable but Jersey City's policy reveals serious flaws. Perhaps the most serious is that abatements are not targeted to areas that would otherwise be left undeveloped as originally intended. Instead, local governing bodies can – and often do – grant abatements to almost any developer building anything, anywhere. This section highlights the problems with the state law and state and municipal policies.

1. **Vague definitions provide overly broad discretion to municipalities.** The Urban Renewal Corporation and Association Law of 1961 was designed "to encourage private investment in blighted and slum areas." However, changes made to the law in 1992 removed the original definition of blight, replacing it with a potpourri of broad qualifications that gave local governing bodies far more discretion to decide what areas should be considered in need of redevelopment. Neighborhoods with "substandard" or "obsolescent" buildings now qualify, as do those with vacant buildings once used for manufacturing or industry. Although abatements can play an important role in enticing developers to an area where they may not otherwise build, their value in already developed and thriving areas is questionable.

Other cities are also taking advantage of the overly broad law. In recent years, Hoboken has dramatically increased the number of tax abatements it has awarded to developers building along its already prosperous waterfront. In 1990, the city received about \$2 million in PILOTs for new projects; in 2007, it received more than \$10 million. In the

opening pages of the city's 2007 budget, Hoboken Mayor Dave Roberts said PILOTs help the city because the revenue is not shared with the county and schools. In newspaper articles, Roberts is quoted as saying Hoboken began providing tax abatements to developers because it was following Jersey City's lead.¹⁸

2. The public has insufficient time to challenge abatements and is excluded from negotiations between the municipality and developer regarding specific abatements.

Abatement negotiations between a municipality and developer take place behind closed doors. This means the public does not learn about an abatement until the governing body begins the adoption process. This leaves the public with only a brief time to challenge proposed and newly adopted long-term abatements. Challenges must be made no more than 20 days after the public is notified that the exemption has been adopted. This is often not enough time for the public to untangle the complexities of an abatement agreement and to prepare a challenge.

3. New Jersey law does not limit the number of abatements a municipality can grant or the amount of a municipality's revenue that can come from PILOTs.

That means a local governing body could theoretically abate all of its property and pay little tax to the county and no tax to the local schools. This puts taxpayers in municipalities that do not grant abatements at a disadvantage because their taxes must rise to compensate for the money the county and schools are not receiving from the abated properties.

In addition, because there is no limit on the percent of a municipality's revenue that can come from PILOTs, municipalities facing a budget shortfall have reason to grant more abatements. This is because in addition to the PILOT it receives from abatement recipients, abatement recipients must pay Jersey City a payment equal to one year's PILOT up front. Because the city does not repay the prepayment until near the end of the abatement, it can use this money to fill holes in its budget.

4. Municipalities are not required to audit abated properties for compliance with the abatement agreement.

When audits are conducted and problems are found, those issues are not always addressed. The last independent audits

in Jersey City were in the mid-90s, when the city audited several projects whose PILOTs were based on the project's total cost – a figure that is more difficult to determine than the total annual revenue generated by the project. Although the audits revealed discrepancies in the amount reported by the developers and the projects' actual cost, which meant that Jersey City was owed more in PILOTs, not all of that money has been recouped.

5. The justification used by governing bodies in awarding abatements is often lacking.

Jersey City's location and relatively low real estate costs compared to Manhattan make the city attractive to developers. In addition, it is unclear whether abatements attract new businesses or simply reward companies that would have located in the city anyway. Jersey City conducts a financial impact analysis – in which it compares the amount it spends per resident on police protection, garbage collection and other municipal services and estimates whether that cost is paid for by the PILOT – before granting any abatement. However, the analysis does not consider the impact the abatement will have on the county government or local schools, nor does it attempt to show whether the abatement helped attract the developer.

6. Many of the developers who receive abatements make political contributions to the officials who granted those abatements.

State law prohibits the awarding of state contracts to individuals or businesses that contribute to a political action committee or an individual running for state office. But in a glaring loophole, the law does not apply to the awarding of contracts on the county or municipal levels, nor does it specifically address campaign contributions to elected officials who approve abatements. Many of the candidates who have run for mayor and city council in Jersey City, including those who publicly opposed tax abatements, have received campaign contributions from developers. Many of those developers' projects had either received – or later received – tax abatements from the city.¹⁹

7. Despite the availability of some abatement-related information online, abatement information in Jersey City is not well maintained or readily available.

Jersey City's website includes a complete list of abatements the city has awarded from January 1989 through November 2008 and a copy of all the city's ordinances, including those dealing

with abatements, granted after 2006.²⁰ However, detailed information about abatements granted before 2006 is available only by filing a request with the City Clerk, which can take weeks. Information about abatements awarded before January 1989 is more difficult to obtain. In addition, files on abatement agreements are listed under the name of the legal entity that filed them, which is not necessarily the same as the name of the developer or project.

Information is even more difficult to obtain because Jersey City does not keep abatement records in a central location. Several city departments are responsible for monitoring abatements. The city's Department of Finance is responsible for financial issues related to abatements; the Office of Economic Opportunity tracks non-financial issues, including whether a project has generated its projected number of jobs; and the city Department of Housing, Economic Development and Commerce tracks the money developers give to the city's Affordable Housing Trust Fund as part of their abatement agreement. These departments are in separate buildings in different areas of the city. Because neither the city nor the state audits tax abatement agreements, there is no way to know whether the records are complete or the developers are in compliance with the terms of their abatement agreement.

8. **Only a small percentage of the people working on abated projects are Jersey City residents, despite the requirement that abatement recipients make a “good faith effort” to hire city residents.** Abatement recipients must sign a “Project Employment and Contracting Agreement,” requiring them to make “a good faith effort” to give more than half the jobs on abated projects to city residents and for half of those residents to be minorities. However, only a handful of developers come close to complying. Often, not even a quarter of jobs go to residents. This despite the fact that more than 18 percent of the city's residents live in poverty and more than 28 percent are black.

City records for January through November 2008 show that less than 15 percent of employees working on tax-abated projects live in Jersey City. Of 25 abated projects, a fraction of the total with abatements, only two had a work force of more than 50 percent city residents for all 11 months.

Another two projects met the goal in at least four of the 11 months and came close to meeting it in most other months. The other 21 projects had a workforce comprised of only a fraction of city residents. To address this problem the city and local labor unions established an apprentice program designed to train city residents for construction jobs. Officials say the program is too new to determine whether it will be effective.

The problem with the employment goal is that it is just that. A developer can demonstrate a good faith effort simply by placing an advertisement in a local newspaper and hosting a job fair in the city, according to Joseph N. Iwuala, acting director of the city's Division of Economic Opportunity, which is charged with enforcing the hiring goals.

Even when a developer does not comply with the law, either by failing to make a good faith effort or by not submitting the required monthly reports stating how many city residents and minorities are working on their project, the city is slow to issue fines.²¹ In 2006 and 2007, the city issued nine fines and collected the money on only three of those, with a fourth developer making a partial payment. Despite not receiving monthly reports from several developers throughout 2008, no fines were issued that year. Other than subtracting the fine from the prepayment developers make when signing the abatement agreement, the city has no way of collecting the fine from a developer unwilling to pay.

9. **On at least two occasions, the City Council in Jersey City amended an existing long-term tax abatement agreement after it was asked to do so by the developer.** In one of those cases, the developer claimed he needed the change due to rising construction costs.²² At that time, construction of the buildings had not yet begun. In the other case, the abatement was changed after the developer claimed the weakening economy had made the project unviable. That abatement was granted in April 2006. The units debuted in February 2008.²³ On May 1, 2009, the developer began offering a free Passion Coup Smart Car, which sell for about \$15,000 each, to people who buy one of 43 available penthouse units. Assuming all of the units are sold, the developer will have spent \$645,000 on the deal.²⁴

RECOMMENDATIONS

This report illustrates the numerous problems with New Jersey's tax abatement law and with policies in Jersey City and elsewhere. In an effort to create jobs, municipalities award tax abatements to companies that claim that without those incentives, they would locate elsewhere. This ignores two significant factors: often, compelling advantages exist that have nothing to do with taxes, and taxes make up only a small portion of a company's cost of doing business. In addition – and even more important – tax abatements shortchange the county and schools, thereby increasing taxes for the owners of non-abated properties.

Tax abatements can admittedly be a useful tool for luring developers to risky locations, such as those suffering from high unemployment and dilapidated infrastructure. In fact, the recently awarded tax abatement to developers promising to redevelop Jersey City's Journal Square might be a good example of an acceptable use of tax abatements. Once a thriving entertainment and shopping destination, Journal Square has suffered huge declines in recent decades and is prime for redevelopment. It does not offer the same dramatic advantages of the city's waterfront, and developers have largely avoided it. However, that same example also demonstrates why stricter oversight of tax abatements is necessary. In December 2008, the City Council awarded MEPT Journal Square Urban Renewal, LLC, which plans to redevelop the 244-acre Journal Square, the most generous tax abatement in the city's history. It is impossible to say whether receiving an abatement played a role in MEPT's decision to help redevelop the area.

Because of the difficulty of knowing whether a developer will walk away from a site if an abatement is not provided, governing bodies should use abatements only as a last resort. A municipality should consider whether the benefit of the company locating there outweighs the cost. That analysis should include the financial stress the development will put on county government and local schools, and on property owners paying taxes on non-abated property. Although Jersey City conducts a financial impact analysis before awarding tax abatements, the analysis has never shown that the abatement would cost the city money.

Improvements to New Jersey's abatement law and municipalities' abatement policies would turn a program that benefits developers into one that targets abatements to projects that would benefit the municipality and its residents. Below is a list of recommended changes.

1. **Amend the long-term abatement law so abatements can only be granted in “blighted areas” where development would otherwise not take place.** The law should clearly define what constitutes a “blighted area” and should set standards for proving that development would not take place without the abatement.
2. **Require that abatement negotiations between a municipality and a developer be made public when they begin.** Deadlines should be set to guarantee that the public has more time to analyze and challenge proposals before they are enacted, and to review and challenge any agreement that is enacted.
3. **Limit the percent of a municipality's revenue that can come from PILOTs related to abatements so that municipalities do not rely on tax abatements to balance their budgets.** The current situation tends to favor abatements if immediate money is needed.
4. **Municipalities should be required to continuously evaluate their tax abatement policy to determine if it benefits its residents.** Practices that do not benefit residents throughout the city should be discontinued.
5. **Prohibit developers from receiving both a tax credit and other incentives from the state and an abatement from the municipality.** This will help ensure that developers pay a more appropriate amount of taxes. Developers who apply for a new abatement should be required to list all abatements they have received in the municipality and their compliance record in meeting conditions of those abatements.
6. **Grant abatements for no longer than 10 years and phase out the amount of the abatement as the property is transferred from the first owner of a condominium or office building to later ones.** Subsequent owners should

receive a small fraction of the abatement benefits. Now, owners of tax abated properties receive a windfall when they sell their property because the monthly mortgage payment of the new owner does not include the full value of property taxes – a substantial cost in New Jersey. Phasing out the abatement by lowering it with each sale would help bring the cost of abated properties into line with properties with no abatements.

7. **Require state review and approval of all property tax abatements over a certain value.** The state should be allowed to rescind abatements it deems unnecessary or not in the best interest of local or state taxpayers. The state should also be able to revoke a developer's abatement if the developer fails to accurately report financial information or to comply with municipal agreements regarding the payment of fees or creation of jobs.
8. **Make available online information regarding tax abatements including ordinances, agreements and compliance reports.** The information should be updated semi-annually. The state Department of Community Affairs should promptly comply with the requirement that it track tax abatement information and post its findings online in an easy-to-read format. The name of the legal entity behind the project and project name should be clearly displayed. Tax abatement information should also be provided in a more understandable form in the Division of Taxation's Abstract of Ratables.
9. **Bar elected officials from granting abatements to developers who have contributed to their campaigns.** There should also be a year-long moratorium on negotiations between an elected official and a developer who con-

tributed to the official's campaign. This should also apply to the developer's employees, stockholders and relatives.

10. **Provide the county with a greater share of the money from PILOT agreements.** The school district should also receive a proportionate share of the money.
11. **Set financial penalties for developers who fail to hire local residents for at least half the jobs on a project.** For each local resident developers fail to hire, they should be required to contribute \$2,000 per person toward a local employment or training program.

CONCLUSION

In the early 1980s, when Jersey City had more vacant and dilapidated buildings along its waterfront than it did thriving ones, the city's use of tax abatements may have helped attract some of the national companies that call the city home today. However, the broad latitude Jersey City and other municipalities have to grant abatements to developers building in areas where real estate is at a premium highlights serious flaws in the state's long-term abatement law.

As this report was written, the country was undergoing the most serious economic crisis since the Great Depression. Many firms, including those on Wall Street, are looking to cut costs. This makes Jersey City, with its relatively low real estate costs, even more attractive. In addition, Jersey City has the advantage of access to a high-caliber work force, prime location and first-rate transportation system. Rather than continuing a policy that awards abatements to developers simply because they ask, municipalities should carefully consider whether the abatement will benefit not only the city but also the county and local schools. After all, their taxpayers bear the responsibility for all.

ENDNOTES

- ¹ The terms tax abatement and tax exemption often are used interchangeably.
- ² Dalehite, Esteban, John Mikesell and C. Kurt Zorn. "Variations in property tax abatement programs among states." *Economic Development Quarterly* 19.2 (2005): Print.
- ³ "Sugar House Lofts at Liberty Cove." *Buyer's Advisors*. Feb 5 2009 <http://www.buyersadvisors.com/sugar_house_lofts.htm> and information compiled using records retrieved from "Data Universe." Gannett New Jersey. Feb 7 2009 <<http://www.app.com/section/DATA>>.
- ⁴ Information compiled using records retrieved from "Data Universe." Gannett New Jersey. Feb 7 2009 <<http://www.app.com/section/DATA>> and the "Tax Rates & Ratios." Hudson County Board of Taxation. Feb 7 2009 <<http://www.hudsoncountytax.com/html/RatesRatios.aspx>>.
- ⁵ New Jersey. *P.L. 2003 c. 125*. 2003. Web.
- ⁶ Jersey City Public Schools. Budget Department. *School District Budget Statement for the School Year 2008-2009*. 2008.
- ⁷ "Sugar House Lofts at Liberty Cove." *Buyer's Advisors*. Feb 5 2009. <http://www.buyersadvisors.com/sugar_house_lofts.htm>.
- ⁸ New Jersey. *P.L. 1961 c. 40*. 1961. Print.
- ⁹ Beer, Nancy. Princeton University. Woodrow Wilson School of Public and International Affairs. *New Jersey's Business Property Tax Abatement Program (Fox-Lance) and Urban Revitalization*. Princeton: 1978. Print.
- ¹⁰ When amending the Long Term Tax Exemption law in 2003, the Legislature originally recommended that counties receive 10 percent of the annual service charge of abatements. However, Governor James E. McGreevey conditionally vetoed the bill and instead recommended that counties receive only 5 percent of the annual service charge.
- ¹¹ New Jersey. *P.L.2003, c.125*. 2003. Web.
- ¹² Baehr, Guy T. "Building blocks – Waterfront pieces falling into place – Remaining parcels at Colgate site spoken for." *Star-Ledger* [Jersey City] Dec 16 1999. Print.
- ¹³ Jersey City. City Council. *Ordinance 07-013: An ordinance implementing Campaign Reform for Redevelopment contracts within the City of Jersey City*. Jersey City: 2007. Print.
- ¹⁴ Whelman, Jeff. "Schundler supporter pays city legal bills." *Star-Ledger* [Jersey City] Apr 4 2001. Print.
- ¹⁵ Arthur Andersen. *Operational and Performance Analysis of the City of Jersey City*. 2001. Print.
- ¹⁶ An earlier version of Arthur Andersen's report, which was leaked by a high-ranking Democrat in the Department of Community Affairs, was more critical of Jersey City's government. Then-Mayor Bret Schundler, who was running for New Jersey governor at the time, said he believed the report was being released to damage his gubernatorial campaign. The DCA official who released the draft of the report was subsequently fired by Gov. DiFrancesco.
- ¹⁷ Manzo has run for mayor in Jersey City five times, including the May 2009 election.
- ¹⁸ Hoboken. City Council. Introduced budget for 2007. Hoboken: 2006. Web <<http://www.hobokennj.org/html/opra/opra1.html>>.
- ¹⁹ Information obtained from New Jersey. Election Law Enforcement Commission. *New Jersey Campaign Financing and Lobbying Disclosure*. Web. <<http://www.elec.state.nj.us/>>.
- ²⁰ Jersey City. *Code of the City of Jersey City, NJ*. 2008. Web <<http://municipalcodes.lexisnexis.com/codes/jersey>>.
- ²¹ Under the terms of the abatement agreements, developers that do not file monthly employment reports with the city are fined as much as 8 percent of their annual PILOT. In some cases, this can equal hundreds of thousands of dollars.
- ²² Kalinoski, Gail. "Developers break ground on \$210M residential, retail project in Jersey City." *Commercial Property News*. Dec 17 2008. Web. <http://www.commercialpropertynews.com/cpn/content_display/property-types/mixed-use-pt/e3i6fbc6343575b26e1bd2eb2e227344eac>.
- ²³ Jones, David. "Sweetening development deals in Jersey City." *The Real Deal*. July 31 2008. Web. <<http://ny.therealdeal.com/articles/sweetening-development-deals-in-jersey-city>>.
- ²⁴ Clark, Amy. "A (free) car in every (penthouse) garage." *The Jersey Journal*. May 18 2009. Web. <<http://www.nj.com/news/jjournal/jerseycity/index.ssf?base/news-8/1242627933192960.xml&coll=3>>.

New Jersey Policy Perspective

137 W. Hanover St., Trenton, NJ 08618

Phone 609-393-1145 • E-mail njpp@njpp.org

Mary E. Forsberg Interim President and Research Director

Raymond C. Castro Senior Policy Analyst

Sarah Stecker Policy Analysts

Anastasia R. Mann

Naomi Mueller Bressler

Karen Lagerquist Outreach Director

Jennifer Andersen Operations Manager

New Jersey Policy Perspective is a nonprofit, nonpartisan organization established in 1997 to conduct research and analysis on state issues. NJPP is a member of the Economic Analysis research Network and State Fiscal Analysis Initiative. For our work on tax policy we're grateful for support from The Fund for New Jersey, Open Society Institute, Annie E. Casey Foundation and Sagner Family Foundation.