

## Horning, Matthew

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**From:** Horning, Matthew  
**Sent:** Monday, May 02, 2011 11:03 AM  
**To:** Morehouse, Joseph  
**Cc:** Crawford, Tom; McCormick, Sue  
**Subject:** Chapter 7

Hi Joe,

I got your voicemail. We just recently became aware of a clause in Ch. 7, 1:156 (2), that appears to limit the capture of the DDA. This clause is not in the DDA act, nor do I think it is explicitly covered in the DDA plan. Here is the pertinent language:

If the captured assessed valuation derived from new construction, and increase in value of property newly constructed or existing property improved subsequent thereto, grows at a rate faster than that anticipated in the tax increment plan, at least 50% of such additional amounts shall be divided among the taxing units in relation to their proportion of the current tax levies. If the captured assessed valuation derived from new construction grows at a rate of over twice that anticipated in the plan, all of such excess amounts over twice that anticipated shall be divided among the taxing units.

Apparently, this language was introduced on the floor as the ordinance was being passed. It is a bit ambiguous, but I think the intent is that the DDA should not get any more tax revenue than was anticipated by the plan. From 1982 to 2002, the original plan had very high estimates of capture, and so this clause was far from being triggered. In the new plan, the estimates were reduced significantly. From 2003 until now, the capture has exceeded the plan.

Attached are two tables. The top table calculates the deviation of capture from plan to actual, applies the 50% criteria, and shows the percent of total capture that may be subject to return. The bottom table shows the tax levy amounts captured by year, the percent of the total, and the allocation of tax subject to return. As you can see, the result would be a \$2 million issue for the DDA, \$1.2 million of which would be owed to the City.

We have had preliminary consultation with the Attorney's Office, but have yet to obtain an opinion as to whether our interpretation is correct. Please let me know if you have any questions.

Thanks,  
Matt



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