

Related Practices

Public Finance

The City Revitalization and Improvement Zone program (CRIZ) created by Act 52 in 2013 allows cities with at least 30,000 residents to designate a zone of up to 130 acres where vacant, desolate or abandoned space can be developed for commercial use to spur job creation. The state and local taxes of the tenants within the CRIZ can be used to pay down construction and redevelopment debt for up to 30 years. Until 2016, the state may award up to two cities and a pilot zone with the ability to establish a CRIZ. A pilot zone is an area of not more than 130 acres designated by a contracting authority within a township or borough with population of at least 7,000. Beginning in 2016, up to two additional cities each year may be given the ability by the state to establish a CRIZ. On December 30, 2013, Governor Corbett announced that Bethlehem and Lancaster were each awarded a City Revitalization and Improvement Zone.

The CRIZ legislation is modeled after the innovative Neighborhood Improvement Zone (“NIZ”) legislation which was created specifically to assist in Allentown’s revitalization but also may be available to other cities in the future. NIZ was the catalyst for the development of an 8,500-seat downtown hockey arena which is the centerpiece to Allentown’s revival. The NIZ has also attracted the developer of a high-end hotel and has resulted in the movement of several large companies to the zone. Other development ranges from the opening of a Starbucks to luxury apartments. The Allentown NIZ, being the first in the Commonwealth, involved numerous issues of first impression that required creative thinking and cooperative work with city and state officials.

Dilworth Paxson LLP is proud to have served as counsel to the City of Allentown in the development and implementation phase of the NIZ, including the financing of the hockey arena and a number of other projects in the NIZ. The NIZ transaction was one of two Allentown transactions awarded “Deal of the Year” for 2013 for the Northeast Region by *The Bond Buyer*, the national public finance newspaper. Those transactions were fraught with roadblocks, some seemingly insurmountable. Dilworth helped guide Allentown through those difficulties working with a team of professionals representing all of the various interests in the transactions. One of the significant hurdles was the need to amend the NIZ legislation in order for the revitalization project in Allentown to be financeable. Dilworth assisted the Senator sponsoring the NIZ legislation in drafting necessary amendments. The Firm also assisted the City with various land use litigation and litigation challenging the legislation brought by surrounding communities, private developers and citizens.

Important distinctions exist between the CRIZ legislation and the NIZ legislation. The NIZ program permits ALL tax revenues generated within the zone to be redirected to financing development of the zone. The CRIZ program provides for only the tax revenue generated over and above existing baseline amounts to be made available for development within the CRIZ. If a developer brings a Pennsylvania company into the CRIZ, it can only use the additional taxes the business generates after the move to the CRIZ above what the company was paying the

state in its old location. The CRIZ program has a requirement that private investment be in an amount equal to \$1 for every \$5 of tax revenue redirected toward financing the development. The NIZ does not include this requirement.

Once a city has received the CRIZ designation, it must establish the amount of state taxes being paid by businesses in the zone in the year prior to the establishment of the CRIZ. The amount by which state tax revenue increases within the zone after its designation as a CRIZ will be the amount of tax revenue redirected to repay the debt created to develop the CRIZ.

Although there are important distinctions between the NIZ and the CRIZ legislation, both utilize the same underlying concepts of redirecting state and local tax revenue and using contracting authorities to provide or borrow money for the construction, development or improvement within the zone. Thus, we at Dilworth Paxson believe that our extensive experience working on all aspects of the NIZ, provides us with the unique ability to guide municipalities that have been chosen for the CRIZ program.

If a city does not have an existing contracting authority, as was the case in Allentown, one will need to be created. Once the authority is created or if a city has an existing authority, it will need to adopt policies and establish guidelines to implement the CRIZ. Dilworth not only assisted Allentown in creating the authority, but also provided counsel to establish guidelines and policies for the authority.

Once a city receives the CRIZ designation, it needs to consider how to structure CRIZ transactions. This will be a difficult task as the legislation does not provide a city with an easy path toward implementation of the CRIZ. The city may wish to put together a pool of loans to be made available to developers. There may not be one large bond issue that will be the funding source for all of the development in the CRIZ. The city will need assistance to work through the mechanics of issuing bonds for the pool and will also need to determine how to allocate revenues among multiple projects. Policy concerns will need to be worked through. For example, if one of the projects in the pool is not succeeding, does the city take money from the other successful projects to cover the debt service requirements allocated to the unsuccessful project? Or will a developer be held individually responsible for its own project?

The city will need to consider the types of funding available – tax-exempt bond issues vs. federally taxable bond issues. The contracting authority may have to issue federally taxable bonds because the projects needed to make the CRIZ a success involve private entities and “private use.” However, tax-exempt financing may be available if a 501(c)(3) project is involved. A critical tax analysis of whether or not the financing or part of it can be tax-exempt will be necessary. Dilworth has the sophisticated tax experience to do this analysis and has done such

analyses in many complex transactions over the years.

Although a city designated as a City Revitalization and Improvement Zone program faces a number of complex, difficult issues, the benefit of the CRIZ could be immense. As we are seeing in Allentown, the NIZ is enabling developers to create world-class facilities and bring in meaningful new business thus creating jobs and bringing life back to a long-suffering city. Dilworth guided Allentown through the NIZ process and is prepared to do guide your city through the CRIZ process.