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September 9, 2020

Via Email delivery

Ms. Michelle Edwards
City Clerk
Room 102, City Hall
17 Harding Ave
Terre Haute, IN 47807
Michelle.Edwards@Terrehaute.In.Gov

Re: Gartland Foundry Company, Inc.
Common Council Resolution 2, 2015
Tax Abatement, Personal and Real Property

Dear Ms. Edwards:

Please accept this correspondence for presentation to the Common Council of the City of Terre Haute, Indiana, in regards to the above reference matter which is scheduled for discussion at a special meeting of the Council on September 10, 2020, to be conducted via a zoom hearing format.

As you know, this firm represents Gartland Foundry Company, Inc. ("Gartland"). The Council has requested Gartland to appear and answer questions concerning the data that was provided in the CF-1 abatement compliance formed filed by Gartland. At the Council meeting on June 11, 2020, the Council determined that Gartland was "not in substantial compliance."

As I am sure that both you and the Council are aware, Indiana Code 6-1.1-12.1-5.9, copy attached, sets out the requirements for determining substantial compliance with the Statement of Benefit. In pertinent part, in order to determine that there is not substantial compliance the Council must find that the failure to meet the levels of the project benefits, as originally provided in the Statement of Benefits, was not the result of "factors beyond the control of the property owner (such as declines in demand for the property owner's products or services)". In this instance we recognize that such information is not reflected in the CF-1 form and the Council has not had prior access to such proprietary company information.

The following information addresses such factors beyond the control of Gartland that have resulted in employment income levels being less than originally shown and anticipated in the Statement of Benefits, as was presented with the Abatement application.

Gartland's business has declined substantially since it applied for the abatement in 2015. In 2014, Gartland had total revenue of [REDACTED]. In 2014 Gartland had a one major customer, whose business generated almost 50% of Gartland's revenue, being [REDACTED] of the total [REDACTED] revenue. That customer's business is largely tied to the oil and natural gas markets. With the decline in oil prices beginning in 2015, their business declined dramatically and Gartland's revenue the last 5 years has dropped from their peak of [REDACTED] to [REDACTED] in 2019. Gartland's total revenue dropped from the [REDACTED] total in 2014 down to [REDACTED] total in 2019. The lost [REDACTED] in revenue from this one customer has obviously been the most significant driver in Gartland's inability to meet payroll targets that the abatement projections were based on at the time of application. You will see in the table provided separately and confidentially, entitled *Garland Sales History From 2014-2020*, submitted for your additional information and consideration, the similar customer effect caused by Gartland's second largest customer as identified therein. That second largest customer decline was largely due to them moving their business offshore. The table shows a summary of Gartland's sales revenue for the last 6 years and the effect that the two largest customers have had in the decline of business revenue to Gartland. In an effort to continue to provide employment for existing employees and retain all 131 positions as estimated, and as has actually occurred, employees' wages had to be reduced. Hence, the difference that Council has observed between the Statement of Benefit and the CF-1 Compliance form.

Clearly, the oil and gas market decline is common knowledge, but verifiable, and completely out of the control of Gartland. Just as a customer company's corporate decision to relocate its business outside the United States is beyond Gartland's control. It is these factors that have resulted in Gartland's inability to maintain and further provide increased payroll numbers as anticipated and submitted with the Statement of Benefit and abatement application. As Indiana Code 6-1.1-12.1-5.9 provides, such factors should not be the basis of a determination of not being in substantial compliance. Gartland respectfully requests that the Council now enter a determination of compliance, for reasons shown.


We certainly recognize the need to provide such detailed information to the Council for their review and oversight in completion of their duties, but to the extent specific customer and financial information can be redacted from public information release copies of this correspondence it would be appreciated.

City Clerk
Common Council
September 9, 2020
Page 3 of 3

Gartland is certainly willing to discuss this matter further if necessary and provide additional information as may be needed if there are any remaining questions. Thank you for your attention in this matter.

Very truly yours,

FOR THE FIRM



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JAL/dhl
Enclosures

West's Annotated Indiana Code

Title 6. Taxation

Article 1.1. Property Taxes

Chapter 12.1. Deduction for Rehabilitation or Redevelopment of Real Property in Economic Revitalization Areas

IC 6-1.1-12.1-5.9

6-1.1-12.1-5.9 Determination of substantial compliance with statement of benefits; notice of noncompliance; hearing; resolution; appeal

Effective: July 1, 2013

Currentness

Sec. 5.9. (a) This section does not apply to a deduction under section 3 of this chapter for property located in a residentially distressed area.

(b) Not later than forty-five (45) days after receipt of the information described in section 5.1, 5.3(j), or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3, 4.5, or 4.8 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, 4.5, or 4.8 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

- (1) the property owner;
- (2) the county auditor; and
- (3) the county assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8.1, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

Credits

As added by P.L.14-1991, SEC.6. Amended by P.L.90-2002, SEC.124; P.L.256-2003, SEC.7; P.L.193-2005, SEC.5, eff. Jan. 1, 2006; P.L.154-2006, SEC.30, eff. March 24, 2006; P.L.3-2008, SEC.37, eff. March 13, 2008; P.L.146-2008, SEC.128; P.L.288-2013, SEC.17, eff. July 1, 2013.

I.C. 6-1.1-12.1-5.9, IN ST 6-1.1-12.1-5.9

The statutes and Constitution are current with all legislation of the 2020 Second Regular Session of the 121st General Assembly.

	GARTLAND SALES HISTORY FROM 2014-2020						
	2014	2015	2016	2017	2018	2019	2020
Total Sales	[REDACTED]						
[REDACTED]	[REDACTED]						