



MOST FREQUENTLY ASKED QUESTIONS ABOUT BARRETT LAW

WHAT IS BARRETT LAW?

Barrett Law provides a convenient method of time payments for affected property owner for improvements such as new streets, curbs, sidewalks, alleys and sewers. The Indiana Code I.C. 36-9-37-8.5 authorizes and determines the method for municipalities to levy assessment for certain improvements against benefited properties.

WHEN IS THE ASSESSMENT LEVIED AGAINST A PROPERTY?

The assessment is levied and becomes due and payable on the date the Board of Public Works confirms the assessment at the final public hearing. (This is after the work has been completed.)

WHAT ARE THE PAYMENT OPTIONS?

Owners have thirty (30) days from the date of assessment to pay in full with no interest or to sign a waiver agreeing to pay in either annual or monthly installments with interest over 10, 20 or 30 years. Assessments from \$100 to \$4,999 may be paid in either monthly or annual installments for up to 10 years. Assessments from \$5,000 to \$14,999 may be paid in either monthly or annual installments for up to 20 years. Assessments of \$15,000 or more may be paid in either monthly or annual installments for up to 30 years. Assessments under \$100.00 must be paid in full. Owners of real property may not change their installment payment option. Part of an assessment may be paid with no interest and the balance placed on installments if desired.

WHAT IS THE INTEREST RATE AND WHEN DOES THE INTEREST START?

The Board of Public Works sets the rate according to prevailing financial conditions at the time the improvement resolution is adopted for a project. Interest begins on the date the assessment is levied and the rate remains the same for the entire ten-year period.

WHEN ARE INSTALLMENTS DUE AND HOW ARE THEY CALCULATED?

The first payment is due on either the tenth of May or tenth of November depending upon which time of the year the assessment is levied. Anything assessed during the first six months of the year (January 1 thru June 30) will have a November due date and anything assessed during the last half of the year (July 1 thru December 31) will have a May due date. Under a yearly payment option, each installment is either 1/10, 1/20 or 1/30 of the assessment in principal plus interest. Under a monthly payment option, each installment is 1/12 of the annual installment. Interest is computed on the unpaid balance. The first installment interest due is regular interest from the date of the assessment to the first bond paying period (August 1 of a May payment or February 1 of a November payment) plus six month's advance interest. All remaining installments are six month's current and six month's advance interest until the last installment, which is only six month's current interest. It is necessary to collect interest in this manner because the bondholder received interest twice a year, but the installments are paid only once a year.

MAY I MAKE EARLY PAYMENTS OR AN ENTIRE PAYOFF?

Indiana law requires that any property owner who has signed a waiver to pay the assessment in deferred installments may, at any time after expiration of the first year, pay the entire assessment, on the condition that 1/5 of the total interest is paid in addition to the balance of principal. The only way to eliminate interest is by a complete payoff. One or more installments may be paid in advance but there is no reduction in interest allowed for this unless the entire assessment is paid in full.

WHO MUST SIGN THE WAIVER?

Waivers must be signed by all deed holders of record. Deed holders may direct us to send the installment notices to a third party, i.e., contract purchaser, mortgage company, etc.

ARE THESE ASSESSMENTS LIENS?

Yes, they are liens until paid in full.

WHEN ARE THEY CONSIDERED A LIEN?

It is an absolute lien when the Board of Public Works confirms the assessment. For purposes of conveying clear title at a sale, it is generally regarded as a potential lien after the contract is awarded and work is in process.

IS THE LIEN TRANSFERABLE?

The lien remains with the property and may be assumed by anyone subject to negotiation and agreement of parties involved. A potential buyer who is obtaining a new mortgage may have difficulty assuming the lien because financial institutions generally will not grant a mortgage for a property with a prior lien. The only liens that have priority over Barrett Law assessments are property tax liens.

WHAT HAPPENS IF I SELL MY PROPERTY?

Usually the seller pays off the assessment by having the amount required for payoff deducted from his receipts at closing. This is generally required by most financial institutions. If you have a cash buyer or are selling on contract, you may be able to negotiate an agreement for the purchases to assume the assessment.

WHAT IF PROPERTY IS SOLD DURING CONSTRUCTION PERIOD BUT BEFORE ASSESSMENT IS LEVIED?

The title company or mortgage company involved generally requests an estimated cost of the improvement and escrows that amount until the assessment is levied.

WHAT HAPPENS TO UNPAID ASSESSMENTS?

An unpaid assessment over thirty days old for which a waiver has not been filed is subject to delinquent interest and will be certified to the Allen County Auditor before the next June 1st for fall property tax sale. If an installment payment becomes delinquent one year and goes into the next year still unpaid, the total remaining unpaid assessment becomes due and is certified to the Allen County Auditor before the next June 1st for fall property tax sale.

For further information, please contact the Barrett Law Department at 427-1105.