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## Lawsuits holding up Fulton business deals

Dave Williams and Douglas Sams, Staff Writers

A June 3 Georgia Supreme Court ruling allowing the use of school tax revenue for development projects has restored a key source of funding for the Atlanta Beltline.

But separate lawsuits filed by the same Buckhead lawyer who took on the Beltline, [John Woodham](#), remain pending. Those suits challenge a series of bond deals approved by the Development Authority of Fulton County.

The outcome will determine whether Fulton — or, for that matter, local development authorities anywhere in the state — will be allowed to continue offering property tax abatements that have been instrumental in landing corporate tenants with high-paying jobs, said Lewis Horne Jr., a lawyer with Schiff Hardin LLP representing the Fulton Authority.

"If Woodham wins ... there will be no more Kias, Baxters or Caterpillars," he said, referring to high-profile business deals that brought manufacturers of cars, pharmaceuticals and construction equipment, respectively, to Georgia. "The primary economic development tool of local development authorities is these tax incentives."

Indeed, the debate over incentives extends beyond Woodham's battle with Fulton County.

This summer, a task force of state business leaders will once again tackle corporate incentives as part of an attempt to create a statewide economic development strategy. The meetings, slated to begin in the next few weeks, will focus on tax exemptions for Georgia manufacturers. Earlier this year, Georgia Economic Development Commissioner [Chris Cummiskey](#) said the pipeline of manufacturing projects that could land in Georgia looks stronger than it has in more than two years.

In the competition to reignite Sun Belt economies that fizzled during the recession, states are "arming themselves" with new economic development strategies, said [John Boyd](#), founder of Princeton, N.J.-based The Boyd Co., a site selection consultant.

One of Georgia's top competitors, North Carolina, is revamping its economic development strategy that involves the private sector. A new board of directors would include state legislators and business leaders. The strategy could enable North Carolina to tap more private capital for corporate incentives, Boyd said.

"Economic development is now front-page news," he said. "In the old days, you could have said only Republicans were pushing for them. Now, it's all politicians. Every state is fighting for jobs. Government may not always have an answer for every economic problem, but one thing it can do

is tinker with the tax code to give more incentives.”

Government incentives are just one part of the story. Building owners also offer incentives to land corporate headquarters.

Last December, children’s clothing manufacturer Carter’s Inc. (NYSE: CRI) agreed to lease 222,730 square feet within Phipps Tower, a more than \$100 million project laden with real estate incentives that topped \$18 million, including free rent and tenant-improvement allowances to build out the offices.

Phipps Tower would house Carter’s new world headquarters and its information technology and financial operations. Carter’s consolidated those divisions from Shelton, Conn., with its new headquarters, in a plan to bring 200 more jobs to Atlanta. The company already employs about 1,200 people here.

The deal was shelved last month when Woodham filed a lawsuit challenging property tax abatements the Fulton development authority offered to building owner Manulife Financial Corp.

Horne said the case likely will take a year and a half to two years to wind its way through the courts. “We can’t issue the bonds until we have a final judgment, so Carter’s is on hold,” he said.

The Carter’s case is just the latest Woodham has brought against the Fulton development authority. Since 2009, he has filed five other lawsuits challenging tax abatements the authority offered to development projects across the county, including three in economically struggling South Fulton. Another of the five suits includes several projects that had already been begun, including the Terminus complex and The St. Regis Atlanta.

Only one of those cases, involving a Lowe’s Home Centers Inc. warehouse in Palmetto, has been resolved.

Woodham declined to comment for this article, citing the pending nature of the litigation he is pursuing.

He has argued that the tax abatements constitute an illegal gratuity by a government agency to private businesses. He also has maintained that tax breaks are unnecessary because developers are going to build in areas where they stand to earn large profits whether or not they are offered incentives.

But [Rusty Paul](#), chairman of the Sandy Springs Development Authority, who works closely with the Fulton development authority, said delays caused by the lawsuits are hurting Georgia’s ability to compete with neighboring states for jobs.

“When you hold these things up for three years, companies aren’t going to stick around,” Paul said. “People are bypassing Fulton County specifically and Georgia in general because of this litigious environment.”