

BID, DDA or URA: How to Decide?

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CCRA Annual Conference
September 18, 2008

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Statutory Authority

- Business Improvement Districts (“BID”)
 - C.R.S. 31-25-1201 et seq.
 - purpose: economic development
- Downtown Development Authority (“DDA”)
 - C.R.S. 31-25-801 et seq.
 - purpose: urban development or redevelopment
- Urban Renewal Authority (“URA”)
 - C.R.S. 31-25-101 et seq.
 - purpose: eliminate slum and blight

Formation

- BID
 - Initiated by petition; signed by owners of real or personal property within the service area of the proposed district with at least 50% of assessed value of the proposed district
- DDA
 - Governing body submits question at next regular or special election, by ordinance. Election may include TABOR issues, in which case election must be held pursuant to TABOR requirements (C.R.S. 1-41-103)

Formation - continued

- URA
 - 25 registered electors within municipality submit petition to governing body; governing body conducts condition survey (aka blight study); must find by resolution that 4 of 11 statutory factors (5 if eminent domain is to be authorized; only one with consent of property owners); if blight found, adopts urban renewal plan (also by resolution), and creates authority.; file certificate of creation with Department of Local Affairs 31-25-107

Boundaries

- BID
 - commercial property only
 - within municipal boundary only
 - service area may be different than boundary
- DDA
 - central business district (“CBD”); the area in a municipality which is and traditionally has been the location of the principal business, commercial, financial, service, and government center, zoned and used accordingly.

Boundaries - continued

- URA
 - generally, within municipal boundaries; may now include unincorporated areas, with consent of county.

Governance

- BID
 - Board of Directors
 - Four options:
 - ex officio board
 - appointed board
 - ex officio of other entity (if overlapping borders)
 - elected
- DDA
 - 5 – 11 members, selected by governing body; at least 1 is member of governing body; initial appointments staggered to ensure rolling expiration; four year terms afterwards. May be appointed by Mayor if municipal charter so provides. Members must reside, own property, or be a business lessee within the boundaries.

Governance - continued

- URA
 - Any odd number of commissioners, at least 5, no more than 11; governing body may appoint board, or appoint itself as the board; but once formed, may not substitute itself for an appointed board. Initial appointment for staggered terms; five-year terms thereafter.

Powers

- BID
 - Construct public improvements, including but not limited to: streets, sidewalks, curbs, pedestrian malls, landscaping, statuaries, fountains, bike paths, benches, information booths, public meeting facilities
 - Business and economic development: consulting; promotion or marketing; organization and promotion of public events; activities in support of business recruitment, management and development; security; design assistance. Specific authorization for "railroad quiet zones." (2006)

Powers - continued

- DDA
 - analyze economic changes; study impacts of growth on the CBD; plan and propose development plans; implement development plans; develop long range plans in cooperation with planning commission and staff of municipality; promote economic growth; persuade business and property owners to implement

Powers - continued

- URA
 - Generally, TIF and eminent domain
 - Carry out "urban renewal projects;" plans to assist the municipality . . .to eliminate and prevent the development or spread of slum and blighted areas; to encourage needed urban rehabilitation; provide for the redevelopment of such areas; providing public improvements; encouraging rehabilitation and repair; relocation of individuals and families; plans for voluntary repair and rehabilitation;
 - May own or operate property for public uses which are in accordance with the urban renewal plan; transfer property to municipality or other public entity for same.

Revenue Raising Tools

- BID
 - May impose ad valorem property taxes (requires TABOR vote).
 - Rates and charges for services or improvements
 - Special assessments (may designate special improvement districts within the BID)
- DDA
 - Tax Increment Financing – sales and property taxes.
 - Also, governing body may impose mill levy up to 5 mills within the downtown development area for operations of the DDA; requires TABOR vote.
- URA
 - Tax Increment Financing – sales and property taxes

Tax Increment Financing (TIF)

- 48 states have some form of Tax Increment Financing (*Dye and Merriman, Tax Increment Financing: A Tool for Local Economic Development, Land Lines, January 2006, Vol. 18, No. 1.*)

- DDA
 - sales and property tax
 - 30 years, plus “rolling” 20 years (SB 08-170)

Tax Increment Financing (TIF) - continued

- URA
 - 25 years
 - can “split” sales tax increment according to agreement between municipality and URA
 - may not “split” property tax increment, except with County
 - HB 05-224: County right to impact report, arbitration

Bonding Authority

- BID
 - Board may issue bonds, but, if board is appointed, or is another entity's governing body, approval of the governing body is required; election required, unless payment is from source other than mill levy
- DDA
 - Municipality issues bonds; subject to TABOR. Proceeds may be spent by either governing body or Authority.
- URA
 - Authority issues bonds; not subject to TABOR. Proceeds spent by Authority.

TABOR

- BID
 - Subject to TABOR; election required for issuance of bonds, and levy of taxes.
- DDA
 - subject to TABOR because municipality issues bonds
- URA
 - Not subject to TABOR. *Olson v. City of Golden*, 53 P.23d 747 (Colo. App. 2002); *Bd. of Comm'rs v. Broomfield*, 7 P.3d 1033 (Colo. App. 1999)

Entity Lifetime

- BID
 - Perpetual existence
- DDA
 - DDA can have perpetual existence but can only collect increment for the 30 year period (plus “rolling” 20-year addition).
- URA
 - Urban renewal authority can have perpetual existence; but tax increment can only be collected for the 25 year period.

Urban Renewal ≠ Economic Development

- Compare other states TIF tools
 - California, Kansas, Oklahoma, Nevada – Sales Tax and Revenue (STAR) Bonds (also called “Sales Tax Anticipated Revenue Bonds”)
 - Also considering: Washington, Alabama, Indiana, Missouri, North Carolina and South Carolina (as of 2006).

Urban Renewal ≠ Economic Development - continued

*When all you have is a hammer,
everything looks like a nail.*
(Abraham Maslow, 1908 –
1970)



Urban Renewal ≠ Economic Development - continued

- Colorado urban renewal statute clear that primary purpose is remedying blight. DDA more liberal re: purpose. BID statute express purpose.
- HB 06-1411 – “For purposes of satisfying the requirements of this section, “public use” shall not include the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenue.”
- 2008 Legislative session – Community Development Areas (CDA’s)
 - similar to URA, but with pure economic development purpose, no blight
 - required consent of other taxing bodies
 - Back in 2009?

Findings

- Compare:
 - plan will afford maximum opportunity, consistent with the sound needs and plans of the municipality, for development or redevelopment of the plan of development area **by the authority and by private enterprise**. (DDA statute)
- with
 - plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area **by private enterprise**. (URA statute – 31-25-107(4)(c))

What are your goals?

- economic development?
 - BID is the only purely economic development tool
- Redevelopment?
 - both DDA and URA authorized for redevelopment
- Remedy/eliminate blight?
 - both DDA and URA authorized for remedying blight

Will you need to use eminent domain?

- URA is the only entity with eminent domain authority
 - special requirements apply
 - HB 04-1203 – six additional conditions
 - blight - 5 factors not 4
 - project commenced within 7 years of taking
 - notice and request for proposals to property owners
 - non-viability without parcel
 - hearing on eminent domain
 - findings and public purpose

Formation Process and Timing Issues

- Is there a particular project coming on line, the tax increment of which you wish to capture?
- Are there particular projects under consideration you wish to encourage?
- No projects on the horizon, just want to create atmosphere for fostering, lay groundwork for incentives?
- What is the optimal base year (if TIF is under consideration?)

Financing

- What time frame is needed to accomplish tasks for which entity is being formed?
- How much revenue is necessary to achieve goals?
- Is revenue needed for up-front capital investments or ongoing operations?
- If TIF is needed/desired, how long for tax increment financing to “pencil?”
 - DDA – 30 years + 10 years (rolling)
 - URA – 25 years fixed

How much control do you want/need?

- Municipal perspective
 - control v. “cover”
 - potential for elected officials to make unpopular decisions (e.g. eminent domain)
 - local business owners
- Property Owner/Developer Perspective

Political Considerations

- Ability of citizens to participate in decision-making regarding formation and operation of entity, issuance of bonds, exercise of eminent domain
- Open records/open meetings requirements
- TABOR considerations
- Stakeholder groups
 - Property owners
 - Other taxing bodies
 - Historic preservation
 - Competing business owners

Why limit yourself to just one?

- Multiple entities can coexist if mission and role is clear
 - (BID + URA) (+ DDA?)
 - Denver:
 - Downtown Denver Partnership
 - Denver Urban Renewal Authority
 - Downtown Development Authority under consideration for Union Station (election Nov. 4, 2008)
 - (URA + DDA)
 - Colorado Springs
 - Longmont
 - Fort Collins
 - Greeley
 - Others?

Why limit yourself to just one? - continued

- Possible scenario
 - URA for eminent domain
 - DDA for long-term TIF
 - BID for ongoing economic and marketing activities

Questions?