

October 21, 2013

Urban Renewal Once Again on Legislative Agenda

While January 8, 2014, the date on which the General Assembly convenes, is still several months away, legislators are already working on the bills they plan to introduce in this legislative session. As has been the case nearly every year for the last 15 years, urban renewal “reform” is on the agenda.

Several legislators have told the press of their plans to introduce legislation to reform the urban renewal statute. Rep. Dickie Lee Hullinghorst (D-Boulder) said she plans to introduce legislation to create “transparency” for urban renewal authorities and to give counties and other taxing districts a “seat at the table” in determining how and whether tax increment funds are spent. Other legislators have indicated concerns with urban renewal projects being implemented on land used or zoned as agricultural, and a desire to exempt fire district tax increment from urban renewal.

As always, feel free to contact us if you would like a more detailed analysis of this legislation in relation to a specific project or matter.

All of these reforms have been considered in the last several years—some have resulted in the passage of legislation, such as HB 10-1107, which placed limitations on the ability to do urban renewal projects on agricultural land.

As the Colorado real estate market transitions from recession into recovery, urban renewal as a tool to eliminate blight by facilitating redevelopment is more critical than ever. Even in a “normal” economy, not all properties are on equal footing. While the emerging economy continues to pose challenges for property owners, developers and investors across the board, properties burdened with the need for demolition of dilapidated or unsafe structures, upgrades to utilities and infrastructure, or removal and remediation of environmental contamination will lag behind the recovery curve because the additional costs required to create a viable project can render them uncompetitive.

In this environment, the tools provided by Colorado’s urban renewal statute play an even more important role in leveraging private investment to catalyze development and redevelopment. As property owners and developers know, the challenges of existing infrastructure, overlapping regulatory environments, and existing neighbors make redevelopment more challenging and less financially feasible than development of raw land, a general rule that is even more significant in a recovering economy. The Colorado urban renewal statute envisions that its role is to close this gap, and place infill and challenged properties on a level playing field with raw land; the law states that it is designed to ensure redevelopment by “private enterprise.”

October 21, 2013

Perhaps what is more important, urban renewal allows development to “pay its own way” by capturing the incremental property and sales tax generated by new development, and also allows an urban renewal authority, metro district, or property owner/developer to borrow against this revenue stream up front in order to facilitate the project. In an urban renewal project, the urban renewal authority forecasts the new, incremental taxes that may be generated by a project after redevelopment. The difference between current revenue (or base) and projected revenue (tax increment) then can be used to finance bonds or reimburse developers for their expenses (tax increment financing). Urban renewal thus adds an additional revenue stream to the capital stack for a project that involves the rehabilitation or redevelopment of property that meets the statutory criteria for blight. Additionally, the base is adjusted upwards every other year in the biennial reassessment, thus allocating additional revenue to all of the taxing entities that impose property taxes within an urban renewal project area. Urban renewal therefore creates a “win-win” for all involved: the urban renewal authority achieves its goal of remediating a blighted area; the developer obtains the additional revenue needed to close the gap in its pro forma; the surrounding property owners get increased property values resulting from the new investment; and the other taxing bodies receive increased property taxes both during and after the 25-year period during which incremental tax revenues may be used.

Enacted in 1958, the urban renewal law was originally designed principally as a tool for municipalities to receive and distribute federal funds for slum clearance and housing construction. Over the last 25 years, however, the federal government has played a decreasing role in funding of such activities, and the tool has evolved as one of self-help for municipalities.

More than 40 urban renewal authorities are active throughout Colorado, from large urban areas such as Denver, Colorado Springs and Aurora, to small rural areas, like Sterling and La Junta. The urban renewal statute has provided tools to facilitate more than 75 projects throughout Denver; 16 of which are within downtown Denver. This includes projects as diverse as Stapleton and the Denver Pavilions, University Hills and the Lowenstein Theater. Outside of Denver, first-tier suburb cities like Lakewood have used urban renewal to create a city center in Belmar, and cities like Arvada have used urban renewal to revitalize their old towns.

In Golden, the Golden Urban Renewal Authority has used urban renewal to revitalize its small but historic downtown via programs ranging from façade matching grants and energy-efficiency upgrades for existing businesses, to a major mixed-use development that activated a corner ailing for nearly 30 years. In Sterling, the urban renewal authority used incremental tax revenues to create more than 300 new jobs by improving infrastructure to restore an abandoned meat-packing plant for industry re-use.

Despite its positive influence throughout the state, urban renewal is not without its detractors. Counties have expressed concern that urban renewal diverts county property tax to incentivize

October 21, 2013

development that would have occurred anyway. Environmental groups believe that urban renewal should not be used to support development on land that is classified as agricultural. And some have opined that urban renewal authorities are not transparent enough to citizens, despite the fact that urban renewal authorities, like all governmental agencies, are subject to the Colorado Sunshine Law and Colorado Open Records Law, and therefore conduct their business subject to public scrutiny.

Real estate professionals, particularly those considering projects involving redevelopment or infill properties, should pay attention to this year's legislation to understand its impact on your projects.

*Our **Brownstein** Public Policy Team is pleased to provide you with updates on legislative topics on as frequent a basis as would be useful for you. The updates include committee actions, record of votes and testimony before committees. These can be sent on a weekly basis or as action takes place on a bill and would be in addition to these updates. Please contact a member of our Public Policy Team for further information.*

Carolynne C. White

Shareholder
cwhite@bhfs.com
Denver
T 303.223.1197

Michael F. Feeley

Shareholder
mfeeley@bhfs.com
Denver
T 303.223.1237

Jason R. Dunn

Shareholder
jdunn@bhfs.com
Denver
T 303.223.1114
Colorado Springs
T 719.635.5569

Melissa L. Kuipers

Attorney and Policy Advisor
mkuipers@bhfs.com
Denver
T 303.223.1164

This document is intended to provide you with general information regarding Urban Renewal. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact one of the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.