

Jurisdictional Collaboration in Urban Renewal: Legal Updates & Case Study

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URA and TIF Summary

History of URA Legislation

- CO HB 15-1348

Legal Requirements

- Sunshine Laws
- Transparency

Commerce City Case Study

Urban Renewal was created to:

- Direct private sector investment to blighted areas
- Reduce urban sprawl
- Revitalize local economies
- Stabilize property values
- Create new jobs
- Remediate contaminated sites
- Improve overall quality of life

Why does development need help?

- Environmental contamination – soil, water, building
- Complicated property assemblage
- Number of tenants
- Aging infrastructure/utilities
- Topography
- Flood plain/way issues
- City/URA requirements

History of URA Legislation

The Housing Act of 1949

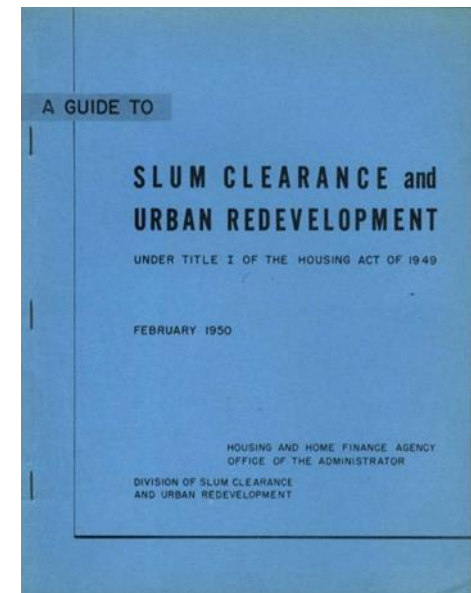
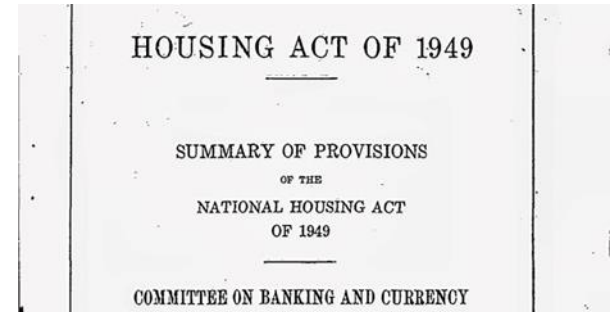
Policy Declaration:

“...the elimination of substandard and other inadequate housing through the *clearance of slum and blighted areas*, and the realization as soon as feasible of the goal of a decent home and *suitable living environment* for every American family...” (*italics added*)



History of URA Legislation

- Enacted 1958, when urban renewal and slum clearance were pressing issues nationwide
- Federal American Housing Act July 15, 1949 (63 Stat. 413)
- Intended primarily to enable Colorado to receive federal funds for slum clearance and housing construction
- TIF provisions added late 70's/early 80's when federal funds began to dry up



Statutory Authorization

- C.R.S. § 31-25-101 et seq.
- Purpose: eliminate slum and blight



- **Not:**
 - job creation
 - economic development
 - increase tax revenue



BUT . . .

- Elimination of slum and blight through redevelopment almost always results in:
 - job creation
 - economic development
 - increased tax revenue



Planning Hierarchy

Community

Vision



Comprehensive
Plan



Neighborhood/Area
Plans



Municipal
Code



Urban Renewal
Plan

Explicit policies
provide support for
incentives designed
to implement
community
priorities beyond
the developer's
goals.



Tax Increment Financing (TIF)

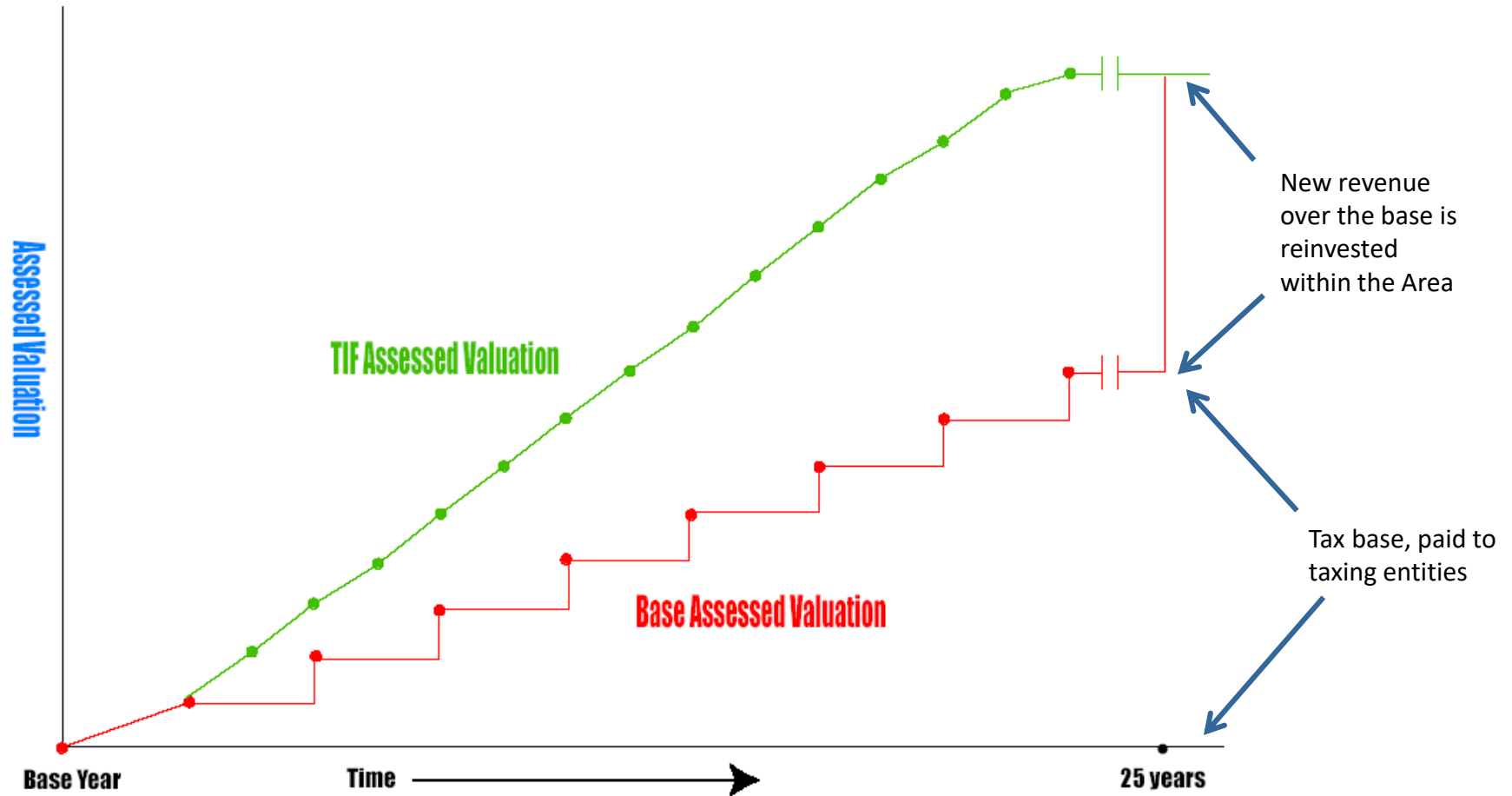
A way to catalyze redevelopment projects by contributing the difference between the base year tax revenue and the increased tax revenue generated by the project, year over year.

What is Tax Increment Financing (TIF)?

- TIF can be sales, property, use and/or lodging tax
- When a Plan is adopted the tax base for that Urban Renewal District is established
- The existing taxing agencies receive that base amount for the next 25 years
- If any of the taxes increase over the base amount, URAs receives that “incremental tax”

How is increment calculated?

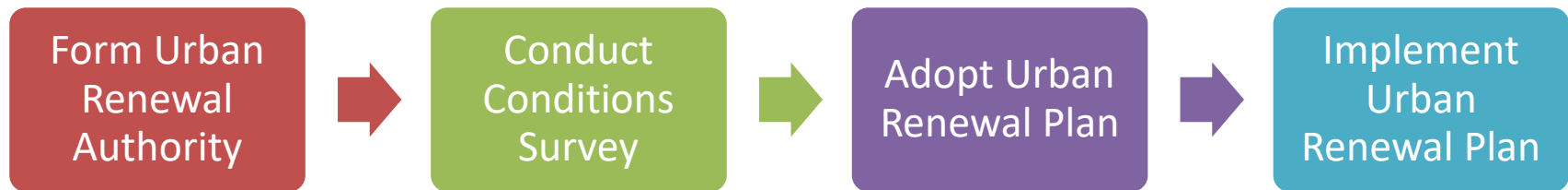
TIF CHART



The “But-For” Argument

- Without Urban Renewal assisting property owners and developers – development may not happen
- Without development, taxes stagnate or decline
- With URA’s investment, sales and property taxes increase – that incremental increase goes to URA to reinvest in the property.

What's the process?

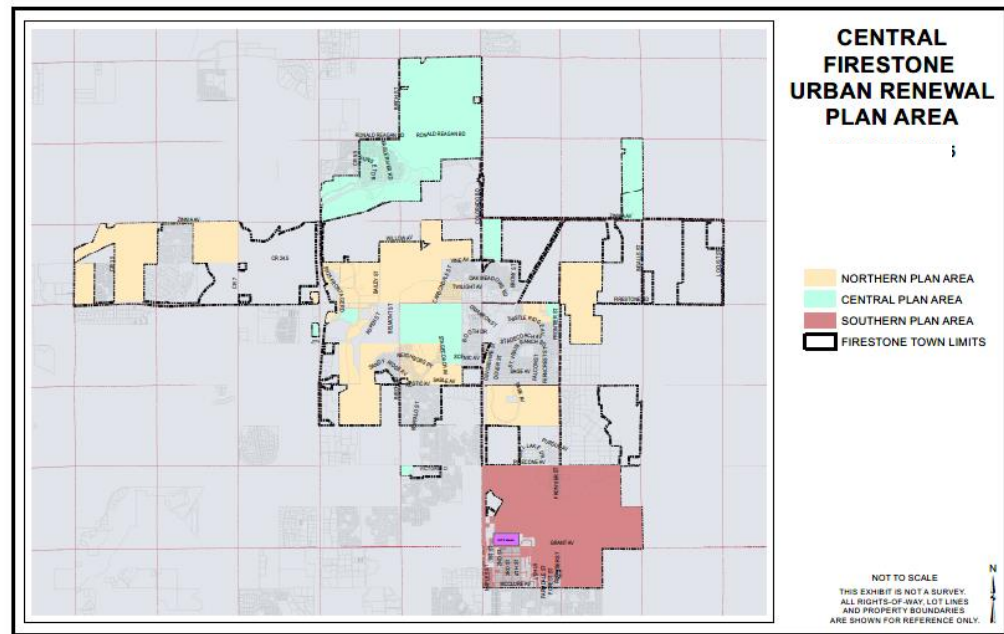


Formation of Urban Renewal Authority

- 25 registered electors within municipality submit petition to governing body
- Public hearing by governing body (10 days notice)
- Adopt resolution creating urban renewal authority
- Findings
 - Slum and blighted conditions exist within the municipality
 - Actions are necessary in the interest of the public health, safety, and welfare to address such blight
 - In the public interest to form URA to exercise statutory powers
- Appoint URA Board (City Council, reps from County, School District and Taxing Entities)
- File certificate of creation with Department of Local Affairs

Boundaries

- Authority's boundaries same as municipality
- May have multiple areas, the boundaries of which shall be “narrowly drawn to accomplish purposes of Act”
- Can only have one authority, but can have multiple areas
- Generally, must be within municipal boundaries
 - BUT may now include contiguous unincorporated areas, with consent of county



Roles and Responsibilities

City Council

- Cause urban renewal plans and amendments to be prepared, approved and implemented
- Acquire real property by eminent domain, if that is the will of the City Council
- Enter into agreements with urban renewal authority

Planning Commission

- Review urban renewal plan for consistency with comprehensive plan
- Consider (and opine on) proposed projects within the urban renewal district

Other Governance Issues

- Colorado Sunshine Act (C.R.S. 24-6-401 et seq.) applies to urban renewal authorities
- Colorado Open Records Act (CORA) (C.R.S. 24-72-201 et seq.) applies to urban renewal authorities
- Adoption of bylaws not expressly required, but advisable
- Adoption of other policies or form documents
 - Intergovernmental Agreement with City
 - Grant Guidelines
 - Public Art
 - Grant Agreement Template
 - TIF Agreement Template
 - Relocation Policies

Factors of Blight

- a. Deteriorated or deteriorating structures
- b. Defective or inadequate street layout
- c. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- d. Unsanitary or unsafe conditions
- e. Deterioration of site or other improvements
- f. Unusual topography or inadequate public improvements or utilities
- g. Defective or unusual conditions of title rendering the title non-marketable
- h. Conditions that endanger life or property by fire or other causes
- i. Buildings that are unsafe or unhealthy for people to live or work in
- j. Environmental contamination of buildings or property
- K5. Existence of health, safety, or welfare factors requiring high levels of municipal services or substantial underutilization or vacancy of buildings, sites, or improvements

How much “blight” is enough?

- If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners . . . one factor...
- If private property is to be acquired by eminent domain, then “blighted area” means . . . at least five factors...
- Otherwise . . . four of the factors...
- Based upon an area “taken as a whole,” and not on a building-by-building, parcel-by-parcel, or block-by-block basis.
- Statute does not require a certain minimum quantity of conditions within any one of the blight factors to be found in order for that blight factor to be considered present in the area.

Congratulations, you have blight.
Now what?



Photo Credit: Mark
Heller

Content of the Plan

- Plan is very general – supported by findings of blight (conditions survey) and impact report
- Elements include description of –
 - area
 - purpose
 - conditions of blight
 - relationship to comprehensive plan
 - objectives
 - implementation approach
 - financing approach
- Supplemented by - overlay plans, zoning, design standards, etc.
- **MUST CONFORM WITH COMPREHENSIVE PLAN**



Pre HB 15-1348 Legal Framework

- Municipalities had unilateral authority to:
 - Determine whether blight exists;
 - Adopt urban renewal plans to remedy and prevent blight;
 - Authorize use of tax increment for such purposes.
- Urban Renewal Authority Board had authority to:
 - Approve specific agreements for individual undertakings and activities

Recent URA Legislation

HB 15-1348

- Add new Board Members
- Negotiate/Mediate with Taxing Bodies

SB 16-177

- “Cleanup” / “Consensus” legislation
- Address technical issues in HB 15-1348
- Fix TABOR language
- Specify procedures for mediation
- Did not change any applicability language

SB 17-279

- Clarifies applicability language
- “Bright line” test
- 30 days to challenge substantial modification
- 45 days for anything else

Jurisdictional Collaboration

- Negotiate intergovernmental agreement regarding sharing of incremental taxes
- Relationships matter



Negotiation/Mediation

- Notice – 90 days prior to public hearing on plan
- If no agreement reached after 120 days → Mediation
- Subject of mediation is “the issue of appropriate allocation of urban renewal project costs among the municipality and all other taxing entities whose taxes will be allocated” under the plan.
- Mediator will issue “findings of fact” re “appropriate allocation of costs.”
- Mediator must issue findings of fact within ninety (90) days of the conclusion of the mediation.

Timeline

