


TAX INCREMENT FINANCING TOOLS

DDA AND URA
CML 2018 CONFERENCE

Dee Wisor
Butler Snow LLP

DDA AND URA
ONE OF THESE THINGS IS NOT LIKE THE OTHER



	URA	DDA
How does formation begin	Initiated by 25 registered voters signing a petition.	Initiated by an ordinance from the municipal governing body.

	URA	DDA
How formed	Resolution of municipal governing body—must find that one or more slum or blighted areas exist in the municipality	Election of qualified electors who are residents, landowners or lessees in DDA area.

	URA	DDA
Jurisdiction	Anywhere in municipality—limited power to include unincorporated territory.	Only in central business district—the area in a municipality which is and traditionally has been the location of the principal business, commercial, financial, service, and governmental center, zoned and used accordingly.

	URA	DDA
Tax levy	No.	Up to 5 mills—levied by <u>municipality</u> for DDA.

	URA	DDA
Debt	Yes-issued by URA.	Yes-issued by <u>municipality</u> not DDA.

	URA	DDA
TABOR	Does not apply-no elections.	Applies-Debt and 5 mill tax must be approved by qualified electors.

	URA	DDA
Plans and Findings	Urban renewal plan-one or more slum or blighted areas exist in the municipality.	Plan of Development-halt or prevent deterioration of property values or structures within the plan of development area <u>or</u> to halt or prevent the growth of blighted areas therein.

	URA	DDA
Involvement of taxing entities in plan approval	As a result of HB 15-1348, URA must negotiate with taxing entities regarding allocation of property tax increment-mediation if no agreement. School district in advisory capacity if residential uses if plan includes TIF provision Impact report must be provided to county.	School district may participate in an advisory capacity if plan includes TIF provision.

	URA	DDA
Projects	Undertakings and activities for the elimination and for the prevention of the development or spread of slums and blight and may involve slum clearance and redevelopment, or rehabilitation, or conservation, or any combination or part thereof, in accordance with an urban renewal plan.	Undertakings and activities of an authority or municipality in a plan of development area for the development or redevelopment of the area in accordance with a plan of development.

	URA	DDA
Tax increment	Both property tax and municipal sales tax-deposited to special fund controlled by URA.	Both property tax and municipal sales tax-deposited to special fund controlled by <u>municipality</u> .

	URA	DDA
Length of tax increment period	25 years.	30 years with possible 20 year extension.

	URA	DDA
Permitted use of tax increment	To pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by the authority for financing or refinancing an urban renewal project, or to make payments under an agreement another taxing entity.	To pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by the municipality for financing or refinancing a development project within the boundaries of the plan of development area.

	URA	DDA
Governance	Independent board or municipal governing body plus if HB 15-1348 applies representatives from county, school district and special district-mayor appoints the municipal representatives.	Independent board appointed by municipal governing body unless charter provides for mayor to appoint.

	URA	DDA
Condemnation	Maybe.	No.

	URA	DDA
Agricultural land	Limits on including in an urban renewal plan.	No provision.

LITIGATION

M.A.K. Investment Group LLC v. City of Glendale and Glendale Urban Renewal Authority, United States District Court for the District of Colorado, 15-CV-02353.

Colorado's Urban Renewal Law determined to be unconstitutional as applied arising out of a blight determination made by the City of Glendale and the Glendale Urban Renewal Authority concerning Plaintiff's property.

LITIGATION

Longs Peak Metropolitan District v. City of Wheat Ridge, Jefferson County District Court, 2017CV30542.

Challenge to the constitutionality of City Charter amendment which required voter approval for many TIF arrangements.

LITIGATION

South Metro Fire Rescue Fire Protection District v. Parker Authority for Reinvestment, Douglas County District Court, 2017CV30549.

Challenge that TIF may not be collected unless bonds or other indebtedness are issued. Assertion is that redevelopment agreements are not sufficient.

LITIGATION

Eric Sutherland v. Poudre Schools District R-1, Colorado Court of Appeals, 2017CA1178.

School District is attempting to resolve threats of litigation by community activist challenging District's bond issue by way of declaratory judgment action and a companion *in rem* proceeding pursuant to C.R.S. § 11-57-213.

LEGISLATION

HB 15-1348, SB 16-177 and SB 17-279

- If 1348 applies:
 - Board membership must expand to include representatives of county, school district and special district
 - Must negotiate allocation of property tax increment
 - Failure to conclude leads to mediation

LEGISLATION

HB 15-1348, SB 16-177 and SB 17-279

- Is it mediation or arbitration?
 - In making a determination of the appropriate sharing, the mediator must consider the nature of the project, the nature and relative size of the revenue and other benefits that are expected to accrue to the municipality and other taxing entities as a result of the project, any legal limitations on the use of revenues belonging to the authority or any taxing entity, and any capital or operating costs that are expected to result from the project. Within ninety days, the mediator must **issue his or her findings of fact** as to the appropriate sharing of costs and incremental property tax revenues, and shall promptly transmit such information to the parties.

LEGISLATION

HB 15-1348, SB 16-177 and SB 17-279

- ▶ following the issuance of findings by the mediator, the governing body of the municipality shall:
 - (A) Incorporate the mediator's findings on the use of incremental property tax revenues of any taxing body into the urban renewal plan and proceed to adopt the plan;
 - (B) Amend the urban renewal plan to delete authorization of the use of the incremental property tax revenues of any taxing body with whom an agreement has not been reached; or
 - (C) Direct the authority to either incorporate the mediator's findings into one or more intergovernmental agreements with other taxing entities or to enter into new negotiations with one or more taxing entities and to enter into one or more intergovernmental agreements with such taxing entities that incorporate such new or different provisions concerning the sharing of costs and incremental property tax revenues with which the parties are in agreement.

LEGISLATION

HB 15-1348, SB 16-177 and SB 17-279

- ▶ As a result of SB 17-279, the HB 15-1348 provisions apply to municipalities, urban renewal authorities, and any urban renewal plans created on or after January 1, 2016, and to any substantial modification of any urban renewal plan where the modification is approved on or after January 1, 2016.

LEGISLATION

SB 18-248

- ▶ Requires certain taxes to be remitted to taxing entities unless they otherwise agree.
 - Only relevant if HB 15-1348 applies

QUESTIONS?