

## MEMORANDUM

**TO: JON WALKER**  
**FROM: NICK GRADISAR**  
**RE: URBAN RENEWAL LAW C.R.S. 31-25-101, et. seq.**  
**DATE: September 5, 2018**

This memo serves as an update on the revisions to the Urban Renewal Law that now requires that taxing entities be notified before an Urban Renewal Area or Plan is implemented that takes a tax increment from a taxing entity.

As before prior to the approval of an Urban Renewal Plan and the creation of an Urban Renewal Area, the Pueblo City Council must submit the plan to the Planning Commission for review and recommendations. The Planning Commission is charged with the responsibility of evaluating the Plan as to its conformity with the general plan for the development of a municipality.

The Planning Commission has 30 days to submit its written recommendations to the City Council.

Upon receipt of the recommendations of the Planning Commission or if no recommendations are received within 30 days, without such recommendations the City Council may proceed with the hearing on the proposed Urban Renewal Plan.

The City Council is required to hold a public hearing on an Urban Renewal Plan, or a substantial modification of an approved Urban Renewal Plan, no less than 30 days after public notice thereof by publication in a newspaper.

At least 30 days prior to the hearing on the Urban Renewal Plan, the City Council shall submit the Plan to the Board of County Commissioners and if tax increment financing is to be used, the governing body shall also submit an Urban Renewal Impact Report to the County Commissioners which, at a minimum, must include:

1. The estimated duration of time to complete the project;
2. The estimated property tax increment to be generated and the portion of such property tax increment to be allocated to the Urban Renewal Project.
3. An estimate of the impact of the Urban Renewal Project on County revenues and on the cost and extent of additional county infrastructure and services required to serve development within the urban renewal area.

4. A statement outlining how the authority or city will finance the project.
5. Any other estimated impacts of the Urban Renewal Project on county services.

Following a hearing, the City Council may approve an Urban Renewal Plan, if it finds:

- (a) a feasible method exists to relocate individuals and families who will be displaced by the Urban Renewal Project;
- (b) a feasible method exists to relocated business concerns that will be displaced by the Urban Renewal Project;
- (c) The City Council has taken reasonable efforts to provide written notice of the Public Hearing to all property owners and owners of the businesses concerned in the proposed Urban Renewal area at least 30 days prior to such hearing;
- (d) No more than 120 days have passed since the commencement of the first public hearing;
- (e) If the Urban Renewal plan contains property that was previously included in an Urban Renewal plan that the governing body failed to approve, at least 24 months have passed since the commencement of the prior public hearing;
- (f) the Urban Renewal plan conforms to the general plan of the municipality;
- (g) the plan will afford maximum opportunity for rehabilitation or redevelopment of the urban renewal area by private enterprise; and
- (h) the authority or municipality will adequately finance any additional county infrastructure and services required to serve a development within the Urban Renewal area for the period in which all or any portion of the property taxes are paid to the Authority.

Once approved, an Urban Renewal plan may be modified, but not less than 30 days prior to approving any modification of an urban renewal plan, the governing body or Urban Renewal Authority shall provide a detailed written description of the proposed modification to each taxing entity and notice of the date and time of the meeting at which the governing body will consider the modification. Any taxing entity within the urban renewal area may file an action in the state district court exercising jurisdiction or an order determining whether the modification of the plan is a substantial modification.

No action may be brought to enjoin any undertaking or activity of the Authority pursuant to an urban renewal plan unless the action is commenced within 45 days after the date on which the authority provided notice of its intention regarding such undertaking or activity.

As before, the urban renewal law allows for the establishment of an urban renewal area that contains a provision that the property taxes of specifically designated public bodies levied after the effective date must be divided for a period not to exceed 25 years after the adoption of the plan (Tax Increment Financing).

As previously, a baseline is set and the taxing entities continue to receive that baseline money.

The tax increment then is paid into the special fund of the Urban Renewal Authority "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, whether funded, refunded, assumed, or otherwise, the authority for financing or refinancing, in whole or in part in Urban Renewal Project or to make payments under an agreement executed pursuant to the Urban Renewal Act".

The Act continues to have the provision that any excess municipal sales tax or property tax collection is not allocated pursuant to the TIF Statute must be paid into the funds of the municipality or the other taxing entity as applicable. It also continues to have the language that when the bonds, loans, advances and indebtedness of any have all been paid, all taxes upon the taxable property shall be paid into the funds of the respective bodies and, all monies remain in the fund of the Urban Renewal area that has not previously been rebated must be paid to each taxing body based upon the pro rata share of the property tax increment.

#### **Notice to Taxing Entities Now Required:**

Importantly, recent revisions to the Urban Renewal Law require notice to the county commissioners and other taxing authorities before any Urban Renewal plan containing tax increment financing may be approved. After notification, representatives of the Urban Renewal Authority and the governing body of each taxing entity are required to meet in attempt to negotiate an agreement governing the sharing of incremental property tax revenue. The agreement must address, without limitation: Estimated impacts of the Urban Renewal plan on county or district services associated solely with the Urban Renewal Plan.

The agreement with respect to sharing tax increment may be entered into separately with each taxing entity or there may be a joint agreement.

If no agreement is reached within 120 days from the date of notice, PURA and the taxing entity or entities must submit to mediation on the issue of the appropriate sharing

of the increment. The mediator must be jointly selected by the parties and if they cannot agree, each will appoint one and those two will appoint a third.

Absent an agreement otherwise, a mediator must be an attorney licensed in Colorado for at least ten years and experienced in land use and administrative law. The payment of fees and costs for mediation will be split equally.

The job of the mediator is to make a determination of the appropriate sharing and must consider:

1. The nature of the project;
2. 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;
3. Any legal limitations on the use of revenues belonging to the authority or any taxing entity and
4. any capital or operating costs that are expected to result from the project.

Not later than 90 days after the mediation, the mediator must issue his or her findings of fact as to the appropriate sharing of costs and incremental property tax revenues.

After receiving the findings of the mediator, Pueblo City Council shall:

- (a) incorporate the mediator's findings on the use of incremental property tax revenues and any taxing body into the Urban Renewal Plan and procedure to adopt the plan.
- (b) amend the Urban Renewal plan to delete authorization to use of the incremental property tax of any taxing body with whom an agreement has not been reached.
- (c) direct the authority to either incorporate the mediator's findings into one or more governmental agreement or to enter into new negotiations with one or more taxing entity and enter into one or more inter governmental agreements that incorporate such new and different provisions.

Unless the notice and mediation requirements are complied with, no incremental property tax revenues may be allocated and paid into the special fund of the authority.

The Pueblo City Council is required to notify the Pueblo County Assessor (a) when an Urban Renewal Plan with TIF has been approved, or substantially modified and (b) any outstanding obligation incurred by the authority has been paid off and (c) the purposes of such authority has otherwise been achieved.

Urban Renewal laws specifically allows for the City, County or Pueblo Urban Renewal to enter into agreements with other taxing entities to provide for the allocation of responsibility, for the payment of costs, county infrastructure services and for the sharing of TIF revenues.

Generally, Urban Renewal Law now encourages the governing body and the taxing entities to enter into agreements with respect to the tax increment and the amount to be used for Urban Renewal purposes and taxing entity purposes.

