

## ***DDA Organization***

A DDA is also a body politic and corporate. There must be at least five and no more than 11 members of the corporate board, all whom are appointed by the governing body of the municipality. A majority of board members must reside or own property in the DDA. At least one board member must be a member of the municipality's governing body. Each member, except for the member who is also a member of the municipality's governing body, must be a resident, landowner, or business lessee within the DDA.

The DDA is first created by an ordinance of the municipality's governing body, putting forth the question of establishing the DDA to a vote of qualified electors at the next general or special election. A qualified elector is a resident, landowner or lessee within the DDA. If any qualified corporate landowner or lessee is not a natural person, that entity-electror may designate a person to vote on its behalf. The municipality's governing body may provide for the submission of taxpayer bill of rights (TABOR) questions at the organizational election; if this is the case the date of the election must be one established by TABOR. If a majority voting in the election vote in favor of establishing the DDA, it will be established.

## ***Powers of DDAs***

The DDA has the power to:

- Acquire property;
- Construct and equip improvements;
- Lease and sell property;
- Establish fees, rates and charges for the use of its property.

If voters approve, a general property tax can be levied on all real and personal property in the DDA's territory. This levy cannot exceed five mills for the budgeted operations of the authority, including non-debt-funded expenditures.

Before purchasing or constructing any project, a development plan that describes the development or redevelopment of an area must be approved by the municipality's governing body. Public facilities that may be part of the plan include, but are not limited to:

*Streets, Parking, Facilities, Rights of Way Bridges, Canals, Buildings, Parks, Playgrounds, Structures, Lakes, Utility lines, Plazas, Pedestrian malls, Waterways, Ponds, Utility pipes, etc.*

The development plan may provide for the use of property and sales tax increment financing. Unlike a URA, the municipality is the issuer of bonds to finance projects for a DDA. Before bonds payable from the tax increment revenues may be issued, the bonds must be approved by an ordinance adopted

by the governing body of the municipality and the question of issuing bonds and pledging the tax increment revenues must be approved by a majority the DDA electors who vote in the election.

### ***Eminent Domain***

Although DDAs do not have the power of eminent domain, they do have the power to acquire property and can assist in the financing of an acquisition that is accomplished using the eminent domain power of another entity, such as a municipality.

## ***Business Improvement District (BID) Organization***

A BID is a quasi-municipal corporation and a political subdivision of Colorado. The BID may include both contiguous and non-contiguous tracts or parcels of commercial property. Only commercial property can be included in the BID.

A BID's board of directors may be constituted in one of four ways: (1) the municipality's governing board may constitute ex-officio the BID's board of directors; (2) the board may be elected by the voters of the BID; (3) the mayor or the municipality's governing body may appoint a board of at least five members; and (4) if there is an overlapping DDA or URA, its board may serve as the board of the BID. Anyone serving on an elected or appointed BID board must be an elector of the BID.

The organizational process for a BID begins when a petition is filed with the municipality. It must be signed by the owners of real and personal property within the service area of the proposed BID who together own not less than 50 percent of the value of all taxable commercial real and personal property in the proposed BID and not less than 50 percent of the acreage within the BID. The service area is defined as that area within the municipality within the boundary of the BID.

At least 50 percent of the service area must include developed land used as commercial property prior to passing the ordinance creating the BID, or the property must be designated by the municipality's governing body as a location for commercial development. The municipal clerk gives notice of the hearing organizing the BID, by publication and mailing. The municipality's governing board then holds a hearing on the BID's organization. After a finding and determination concerning the sufficiency of the petition, and a determination that the kinds of services and improvements to be provided will best satisfy the purposes of the BID, the municipality's governing body considers an ordinance to provide for the creation of the BID. The BID exists upon adoption of the ordinance, but an election satisfying the requirements of TABOR is generally necessary to approve the BID's financial powers.

## ***Powers of BIDs***

The BID has statutory authority to:

- Enter into contracts;
- Acquire and operate improvements;
- Provide services;
- Establish rates, tolls and charges for services and improvements furnished by the BID;
- Create special assessment districts and levy special assessments for improvements or services;
- Levy and collect general property taxes against all commercial property

in the BID.

### ***Eminent Domain***

Although BIDs do not have the power of eminent domain, they do have the power to acquire property and can assist in the financing of an acquisition that is accomplished using the eminent domain power of another entity, such as a municipality.

### ***C. Urban Renewal Authorities (URAs)***

URAs are used in a wide variety of situations, nearly always involving the tear down of existing structures and replacement with new structures. Without the new construction or substantial renovation, there would be no tax increment to fund the URA project. While the primary benefit of a URA is the use of tax-increment financing (TIF) (see *Financing and Funding, TIF* for more information), The power of eminent domain is also available to URAs to acquire property, when necessary, to alleviate slum and blight. Survey results indicate that this power is used very infrequently by most URAs surveyed.

***URA Organization*** A URA is a body politic and corporate, meaning it has

attributes of both a political and corporate organization by law. The potential

attributes of both a political and corporate organization by law. The potential



boundaries of the URA are coterminous

C.R.S. 31-25-104(1)(b)

with the municipality – meaning they end where the municipality ends. When the

governing board for the authority is created, if it is a separate board from the governing body of the municipality, the mayor appoints those serving on the board, called the commissioners, and they are approved by the governing body of the municipality. There must be an odd number of commissioners (at least 5 and no more than 11), and only one may be a municipality official. If the governing body of municipality chooses, it may designate itself as the authority, in which case, that body would govern the URA.

The creation of a URA is started when a petition, signed by at least 25 registered electors of the municipality, is filed. The municipality must publish a notice of hearing. At that hearing, the governing body hears and considers all comments relating to the formation of the URA. After deciding that a slummed or blighted area exists and that it is necessary to redevelop it, a resolution to that effect is adopted. This finding of the existence of a slummed or blighted area is required before there can be a URA. A certificate is then filed with the state Division of Local Government and when filed, the URA is established.

### ***Powers of URAs***

The URA has broad powers with respect to any urban renewal plan, including the power to acquire property. Property may be acquired by purchase, lease, option, gift, or by eminent domain (condemnation). If property is acquired by condemnation, this action must be approved as part of the urban renewal plan or a modification of the plan by a majority of the municipality's governing body. The URA does not have the authority to levy general property taxes or any other taxes.

Prior to any powers being granted to the URA, an urban renewal plan must be approved by the governing body of the municipality. There must be specific findings regarding the plan, including the finding that the plan will conform to the general plan of the municipality and will afford maximum opportunity for the

redevelopment of the urban renewal area by private enterprise. Before the plan

is considered for approval by the municipality's governing body, it must be submitted to the planning commission, and a public hearing must be held by the governing body. If an approved plan is to be changed, the plan must go through this same process once again.

### ***Eminent Domain***

Of the three entities discussed in this guide, only Urban Renewal Authorities have the power of eminent domain. URAs do not use eminent domain often. In the 2008-9 DCI survey, all respondents were either unlikely or highly unlikely to use this power. In the past, most URAs had not used this method for obtaining property. Three reported to using eminent domain one to two times, and one reported to using it three to five times.

<sup>6</sup> A recent statutory change may allow some portions of the unincorporated area of a county to be included in a U.R.A. C.R.S. 31-25-\_\_\_\_\* check cite  
<sup>7</sup> *East Grand County School District No. 2 v. Town of Winter Park*, 739 P.2d 862 (1987).