


CITY COUNCIL COMMUNICATION



MEETING DATE: January 26, 2010 **ITEM NUMBER:** 9F
TYPE OF ITEM: Consent
PRESENTED BY: Sandra Seader, Assistant to the City Manager (303-651-8634),  Sandra Seader
2010.01.19
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SUBJECT/AGENDA TITLE: Support House Bill 10-1107, concerning limitations on the inclusion of agricultural land within urban renewal areas.

EXECUTIVE SUMMARY: Over the last several years, the State legislature has spent significant energy in bills that propose reform to the Urban Renewal Authority (URA) and Tax Increment Financing (TIF) tools. TIF is used in a redevelopment area to take the future tax increment of that area, bond against it, and use that anticipated revenue to help finance the redevelopment project, its infrastructure, etc. The issue with TIF for many taxing entities is that this is a tool municipalities use to help redevelop “blighted” areas, but in some cases TIF is used in greenfield, or agricultural areas. In this case, the cities take the increment from counties, school districts and special districts what may have happened anyway (not really urban renewal).

The bill would prevent the inclusion of agricultural land in URAs unless:

- **Brownfields** - The land can be considered a “Brownfield;” or
- **Contiguity** - The urban renewal area contains fifty percent or more urban level development deemed to constitute a slum or blighted area, AND two-thirds of the perimeter of the urban renewal area is contiguous to urban level development; or
- **Enclave** - The land is an “enclave,” within a municipality and fully surrounded by urban level development for at least three years; or
- **Agreement of All** - All impacted taxing entities agree to include the land in the URA; or
- **Already Approved** - The land was included in an approved URA prior to the effective date of the law.

In these circumstances, agricultural land would be valued at fair market value solely for determining a legitimate tax increment “base.” This bill was crafted in conjunction with municipalities, counties and legislators to ensure that the issues around agricultural land are addressed without gutting the TIF tool. It is narrowly crafted, clarifies the rules, levels the playing field and even reduces competition between municipalities from grabbing land for inclusion in an URA. Developers expect TIF in their projects, and this restriction helps to keep urban renewal truly urban.

COUNCIL OPTIONS: City Council may:

1. Support HB 10-1107 as written
2. Oppose HB 10-1107 as written
3. Request amendments to HB 10-1107
4. Remain neutral on HB 10-1107



RECOMMENDED OPTIONS: This bill furthers reform to Tax Increment Financing (TIF), preventing unintended uses without eroding the tool for municipalities, which is important for redevelopment projects in Longmont, such as the Sugar Factory area and the Twin Peaks Mall. It is recommended that the Longmont City Council support this legislation.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION: N/A

BACKGROUND AND ISSUE ANALYSIS: N/A

ATTACHMENTS: House Bill 10-1107

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0078.01 Bob Lackner

HOUSE BILL 10-1107

HOUSE SPONSORSHIP

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House Committees

Agriculture, Livestock, & Natural Resources

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A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON THE INCLUSION OF AGRICULTURAL
102 LANDS WITHIN URBAN RENEWAL AREAS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 3 of the bill prohibits any area that has been designated as an urban renewal area from containing any agricultural land unless:

- ! The agricultural land is a brownfield site as designated by the United States environmental protection agency;
- ! The area containing the agricultural land is at least

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

two-thirds contiguous with urban-level development and at least one-half of the area consists of urban-level development that is determined to constitute a slum or blighted area;

- ! The agricultural land is an enclave within the territorial boundaries of a municipality and the entire perimeter of the enclave has been contiguous with urban-level development for a period of not less than 3 years;
- ! Each public body that levies an ad valorem property tax on the agricultural land agrees in writing to the inclusion of the agricultural land within the urban renewal area; or
- ! The agricultural land was included in an approved urban renewal plan prior to the effective date of the bill.

In addition, section 3 of the bill:

- ! Where agricultural land is included within an urban renewal area under the conditions specified in the bill, requires the county assessor to value the agricultural land at its fair market value solely for determining the base amount of taxes to be paid to the public bodies without consideration of the tax increment. Nothing in the bill affects the actual classification of agricultural land for property tax purposes.
- ! Expands the grounds allowing counties to challenge information contained in urban renewal impact reports.
- ! Permits the required agreement to be entered into by or among the municipality and urban renewal authority and county taxing entities in the case of tax increment financing to provide for a waiver of certain requirements under the urban renewal law.

Section 4 of the bill requires urban renewal plans to include a legal description of the urban renewal area, including the legal description of any agricultural land proposed for inclusion within the urban renewal area pursuant to the conditions specified in the bill.

Section 5 of the bill provides that, not later than 30 days after the municipality has provided the county assessor notice that the urban renewal plan contains tax increment financing provisions, the assessor may provide written notice to the municipality if the assessor believes that agricultural land has been improperly included in the urban renewal area under the conditions specified in the bill. If the notice is not delivered within the 30-day period, the inclusion of the land in the urban renewal area as described in the urban renewal plan shall be incontestable in any suit or proceeding notwithstanding the presence of any cause. If the assessor provides written notice to the municipality within the 30-day period, the municipality may file an action in state district court for an order determining whether the inclusion of the land in the urban renewal

area is consistent with one of the conditions specified in the bill and shall have an additional 30 days from the date it receives the notice in which to file the action. If the municipality fails to file such an action within the additional 30-day period, the urban renewal area shall not include the agricultural land.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 31-25-102, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **31-25-102. Legislative declaration.** (4) THE GENERAL
5 ASSEMBLY FURTHER FINDS AND DECLARES THAT:

6 (a) URBAN RENEWAL AREAS CREATED FOR THE PURPOSES
7 DESCRIBED IN SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL NOT
8 INCLUDE AGRICULTURAL LAND EXCEPT IN CONNECTION WITH THE LIMITED
9 CIRCUMSTANCES DESCRIBED IN THIS PART 1; AND

10 (b) THE INCLUSION OF AGRICULTURAL LAND WITHIN URBAN
11 RENEWAL AREAS IS A MATTER OF STATEWIDE CONCERN.

12 **SECTION 2.** 31-25-103 (1), Colorado Revised Statutes, is
13 amended, and the said 31-25-103 is further amended BY THE
14 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

15 **31-25-103. Definitions.** As used in this part 1, unless the context
16 otherwise requires:

17 (1) ~~"Authority" or "urban renewal authority" means a corporate~~
18 ~~body organized pursuant to the provisions of this part 1 for the purposes,~~
19 ~~with the powers, and subject to the restrictions set forth in this part 1.~~

20 "AGRICULTURAL LAND" MEANS ANY ONE PARCEL OF LAND OR ANY TWO OR
21 MORE CONTIGUOUS PARCELS OF LAND THAT, REGARDLESS OF THE USES
22 FOR WHICH THE LAND HAS BEEN ZONED, IS CLASSIFIED BY THE COUNTY
23 ASSESSOR AS AGRICULTURAL LAND FOR PURPOSES OF THE LEVYING AND

1 COLLECTION OF PROPERTY TAX PURSUANT TO SECTIONS 39-1-102 (1.6) (a)
2 AND 39-1-103 (5) (a), C.R.S.

3 (3.1) "BROWNFIELD SITE" MEANS REAL PROPERTY, THE
4 DEVELOPMENT, EXPANSION, REDEVELOPMENT, OR REUSE OF WHICH WILL
5 BE COMPLICATED BY THE PRESENCE OF A SUBSTANTIAL AMOUNT OF ONE
6 OR MORE HAZARDOUS SUBSTANCES, POLLUTANTS, OR CONTAMINANTS, AS
7 DESIGNATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
8 AGENCY.

9 (7.5) "URBAN-LEVEL DEVELOPMENT" MEANS AN AREA IN WHICH
10 THERE IS A PREDOMINANCE OF EITHER PERMANENT STRUCTURES OR
11 ABOVE-GROUND OR AT-GRADE INFRASTRUCTURE.

12 (8.5) "URBAN RENEWAL AUTHORITY" OR "AUTHORITY" MEANS A
13 CORPORATE BODY ORGANIZED PURSUANT TO THE PROVISIONS OF THIS
14 PART 1 FOR THE PURPOSES, WITH THE POWERS, AND SUBJECT TO THE
15 RESTRICTIONS SET FORTH IN THIS PART 1.

16 **SECTION 3.** 31-25-107 (1) (c), the introductory portion to
17 31-25-107 (3.5) (a), 31-25-107 (9) (a) (II), (10) (a), and (11), the
18 introductory portion to 31-25-107 (12) (a), and 31-25-107 (12) (e),
19 Colorado Revised Statutes, are amended, and the said 31-25-107 (9) is
20 further amended BY THE ADDITION OF THE FOLLOWING NEW
21 PARAGRAPHS, to read:

22 **31-25-107. Approval of urban renewal plans by local**
23 **governing body.** (1) (c) (I) Except for urban renewal plans subject to
24 section 31-25-103 (2) (I), the boundaries of an area that the governing
25 body determines to be a blighted area shall be drawn as narrowly as the
26 governing body determines feasible to accomplish the planning and
27 development objectives of the proposed urban renewal area. The

1 governing body shall not approve an urban renewal plan until a general
2 plan for the municipality has been prepared. An authority shall not
3 acquire real property for an urban renewal project unless the local
4 governing body has approved the urban renewal plan in accordance with
5 subsection (4) of this section. In making the determination as to whether
6 a particular area is blighted pursuant to the provisions of this part 1, any
7 particular condition found to be present may satisfy as many of the factors
8 referenced in section 31-25-103 (2) as are applicable to such condition.

9 (II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, NO
10 AREA THAT HAS BEEN DESIGNATED AS AN URBAN RENEWAL AREA SHALL
11 CONTAIN ANY AGRICULTURAL LAND UNLESS:

12 (A) THE AGRICULTURAL LAND IS A BROWNFIELD SITE;

13 (B) NOT LESS THAN ONE-HALF OF THE URBAN RENEWAL AREA AS
14 A WHOLE CONSISTS OF PARCELS OF LAND CONTAINING URBAN-LEVEL
15 DEVELOPMENT THAT, AT THE TIME OF THE DESIGNATION OF SUCH AREA,
16 ARE DETERMINED TO CONSTITUTE A SLUM OR BLIGHTED AREA, OR A
17 COMBINATION THEREOF, IN ACCORDANCE WITH THE REQUIREMENTS OF
18 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND NOT LESS THAN
19 TWO-THIRDS OF THE PERIMETER OF THE URBAN RENEWAL AREA AS A
20 WHOLE IS CONTIGUOUS WITH URBAN-LEVEL DEVELOPMENT AS
21 DETERMINED AT THE TIME OF THE DESIGNATION OF SUCH AREA;

22 (C) THE AGRICULTURAL LAND IS AN ENCLAVE WITHIN THE
23 TERRITORIAL BOUNDARIES OF A MUNICIPALITY AND THE ENTIRE
24 PERIMETER OF THE ENCLAVE HAS BEEN CONTIGUOUS WITH URBAN-LEVEL
25 DEVELOPMENT FOR A PERIOD OF NOT LESS THAN THREE YEARS AS
26 DETERMINED AT THE TIME OF THE DESIGNATION OF THE AREA;

27 (D) EACH PUBLIC BODY THAT LEVIES AN AD VALOREM PROPERTY

1 TAX ON THE AGRICULTURAL LAND AGREES IN WRITING TO THE INCLUSION
2 OF THE AGRICULTURAL LAND WITHIN THE URBAN RENEWAL AREA; OR

3 (E) THE AGRICULTURAL LAND WAS INCLUDED IN AN APPROVED
4 URBAN RENEWAL PLAN PRIOR TO THE EFFECTIVE DATE OF THIS
5 SUBPARAGRAPH (II).

6 (3.5) (a) At least thirty days prior to the hearing on an urban
7 renewal plan or a substantial modification to such plan, REGARDLESS OF
8 WHEN THE URBAN RENEWAL PLAN WAS FIRST APPROVED, the governing
9 body or the authority shall submit such plan or modification to the board
10 of county commissioners, and, if property taxes collected as a result of the
11 county levy will be utilized, the governing body or the authority shall also
12 submit an urban renewal impact report, which shall include, at a
13 minimum, the following information concerning the impact of such plan:

14 (9) (a) Notwithstanding any law to the contrary, any urban
15 renewal plan, as originally approved or as later modified pursuant to this
16 part 1, may contain a provision that taxes, if any, levied after the effective
17 date of the approval of such urban renewal plan upon taxable property in
18 an urban renewal area each year or that municipal sales taxes collected
19 within said area, or both such taxes, by or for the benefit of any public
20 body shall be divided for a period not to exceed twenty-five years after
21 the effective date of adoption of such a provision, as follows:

22 (II) That portion of said property taxes or all or any portion of said
23 sales taxes, or both, in excess of ~~such~~ THE amount OF PROPERTY TAXES OR
24 SALES TAXES PAID INTO THE FUNDS OF EACH SUCH PUBLIC BODY IN
25 ACCORDANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS
26 PARAGRAPH (a) shall be allocated to and, when collected, paid into a
27 special fund of the authority to pay the principal of, the interest on, and

1 any premiums due in connection with the bonds of, loans or advances to,
2 or indebtedness incurred by, whether funded, refunded, assumed, or
3 otherwise, ~~such~~ THE authority for financing or refinancing, in whole or in
4 part, an urban renewal project, or to make payments under an agreement
5 executed pursuant to subsection (11) of this section. Any excess
6 municipal sales tax collections not allocated pursuant to this subparagraph
7 (II) shall be paid into the funds of the municipality. Unless and until the
8 total valuation for assessment of the taxable property in an urban renewal
9 area exceeds the base valuation for assessment of the taxable property in
10 such urban renewal area, as provided in subparagraph (I) of this
11 paragraph (a), all of the taxes levied upon the taxable property in such
12 urban renewal area shall be paid into the funds of the respective public
13 bodies. Unless and until the total municipal sales tax collections in an
14 urban renewal area exceed the base year municipal sales tax collections
15 in such urban renewal area, as provided in subparagraph (I) of this
16 paragraph (a), all such sales tax collections shall be paid into the funds of
17 the municipality. When such bonds, loans, advances, and indebtedness,
18 if any, including interest thereon and any premiums due in connection
19 therewith, have been paid, all taxes upon the taxable property or the total
20 municipal sales tax collections, or both, in such urban renewal area shall
21 be paid into the funds of the respective public bodies.

22 (g) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
23 IF ONE OR MORE OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II) OF
24 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION HAS BEEN SATISFIED
25 SUCH THAT AGRICULTURAL LAND IS INCLUDED WITHIN AN URBAN
26 RENEWAL AREA, THE COUNTY ASSESSOR SHALL VALUE THE AGRICULTURAL
27 LAND AT ITS FAIR MARKET VALUE SOLELY FOR DETERMINING THE TAXES

1 TO BE PAID TO THE PUBLIC BODIES PURSUANT TO SUBPARAGRAPH (I) OF
2 PARAGRAPH (a) OF THIS SUBSECTION (9). NOTHING IN THIS SECTION SHALL
3 AFFECT THE ACTUAL CLASSIFICATION OF AGRICULTURAL LAND FOR
4 PROPERTY TAX PURPOSES.

5 (h) THE MANNER AND METHODS BY WHICH THE REQUIREMENTS OF
6 THIS SUBSECTION (9) ARE TO BE IMPLEMENTED BY COUNTY ASSESSORS
7 SHALL BE CONTAINED IN SUCH MANUALS, APPRAISAL PROCEDURES, AND
8 INSTRUCTIONS, AS APPLICABLE, THAT THE PROPERTY TAX ADMINISTRATOR
9 IS AUTHORIZED TO PREPARE AND PUBLISH PURSUANT TO SECTION 39-2-109
10 (1) (e), C.R.S.

11 (10) The municipality in which an urban renewal authority has
12 been established pursuant to the provisions of this part 1 shall timely
13 notify the assessor of the county in which such authority has been
14 established when:

15 (a) An urban renewal plan OR A SUBSTANTIAL MODIFICATION OF
16 SUCH PLAN has been approved that contains the provision referenced in
17 paragraph (a) of subsection (9) of this section OR A SUBSTANTIAL
18 MODIFICATION OF THE PLAN ADDS LAND TO THE PLAN, WHICH PLAN
19 CONTAINS THE PROVISION REFERENCED IN PARAGRAPH (a) OF SUBSECTION
20 (9) OF THIS SECTION;

21 (11) The governing body or the authority may enter into an
22 agreement with any county TAXING ENTITY within the boundaries of
23 which property taxes collected as a result of the ~~county~~ TAXING ENTITY'S
24 levy, or any portion of the levy, will be subject to allocation pursuant to
25 subsection (9) of this section. The agreement may provide for the
26 allocation of responsibility among the parties to the agreement for
27 payment of the costs of any additional county infrastructure or services

1 necessary to offset the impacts of an urban renewal project and for the
2 sharing of revenues. Except with the consent of the governing body or
3 the authority, any such shared revenues shall be limited to all or any
4 portion of the taxes levied upon taxable property within the urban renewal
5 area by the ~~county~~ TAXING ENTITY. THE AGREEMENT MAY PROVIDE FOR
6 A WAIVER OF ANY PROVISION OF THIS PART 1 THAT PROVIDES FOR NOTICE
7 TO THE TAXING ENTITY, REQUIRES ANY FILING WITH OR BY THE TAXING
8 ENTITY, REQUIRES OR PERMITS CONSENT FROM THE TAXING ENTITY, OR
9 PROVIDES ANY ENFORCEMENT RIGHT TO THE TAXING ENTITY.

10 (12) (a) ~~Except as provided in paragraph (c) of this subsection~~
11 ~~(12)~~; The county may enforce the requirements of subparagraphs (H) and
12 ~~(IV) of paragraph (a) of subsection (3.5) and paragraph (h) of subsection~~
13 ~~(4) of this section, INCLUDING WITHOUT LIMITATION SUBPARAGRAPH (V)~~
14 ~~OF PARAGRAPH (a) OF SUBSECTION (3.5) OF THIS SECTION, by means of the~~
15 ~~arbitration process established by this subsection (12) where:~~

16 (e) ~~Notwithstanding any other provision of this section, the~~
17 ~~provisions of this subsection (12) shall not apply to any urban renewal~~
18 ~~plan in which less than ten percent of the area identified in such plan:~~

19 (I) ~~Has been classified as agricultural land for purposes of the~~
20 ~~levying and collection of property tax pursuant to section 39-1-103,~~
21 ~~C.R.S., at any time during the three-year period prior to the date of~~
22 ~~adoption of the plan; and~~

23 (H) ~~Is currently identified for agricultural uses in a master plan~~
24 ~~adopted by the municipality pursuant to section 31-23-206 and has been~~
25 ~~so identified for more than one year prior to the date of adoption of the~~
26 ~~plan.~~

27 **SECTION 4.** 31-25-107 (1), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **31-25-107. Approval of urban renewal plans by local**
3 **governing body.** (1) (d) IN THE CASE OF AN URBAN RENEWAL PLAN
4 APPROVED OR SUBSTANTIALLY MODIFIED ON OR AFTER THE EFFECTIVE
5 DATE OF THIS PARAGRAPH (d), THE PLAN SHALL INCLUDE A LEGAL
6 DESCRIPTION OF THE URBAN RENEWAL AREA, INCLUDING THE LEGAL
7 DESCRIPTION OF ANY AGRICULTURAL LAND PROPOSED FOR INCLUSION
8 WITHIN THE URBAN RENEWAL AREA PURSUANT TO THE CONDITIONS
9 SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (c) OF THIS SUBSECTION
10 (1).

11 **SECTION 5.** 31-25-107, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **31-25-107. Approval of urban renewal plans by local**
14 **governing body.** (13) NOT LATER THAN THIRTY DAYS AFTER THE
15 MUNICIPALITY HAS PROVIDED THE COUNTY ASSESSOR THE NOTICE
16 REQUIRED BY PARAGRAPH (a) OF SUBSECTION (10) OF THIS SECTION, THE
17 COUNTY ASSESSOR MAY PROVIDE WRITTEN NOTICE TO THE MUNICIPALITY
18 IF THE ASSESSOR BELIEVES THAT AGRICULTURAL LAND HAS BEEN
19 IMPROPERLY INCLUDED IN THE URBAN RENEWAL AREA IN VIOLATION OF
20 SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
21 SECTION. IF THE NOTICE IS NOT DELIVERED WITHIN THE THIRTY-DAY
22 PERIOD, THE INCLUSION OF THE LAND IN THE URBAN RENEWAL AREA AS
23 DESCRIBED IN THE URBAN RENEWAL PLAN SHALL BE INCONTESTABLE IN
24 ANY SUIT OR PROCEEDING NOTWITHSTANDING THE PRESENCE OF ANY
25 CAUSE. IF THE ASSESSOR PROVIDES NOTICE TO THE MUNICIPALITY WITHIN
26 THE THIRTY-DAY PERIOD, THE MUNICIPALITY MAY FILE AN ACTION IN
27 STATE DISTRICT COURT EXERCISING JURISDICTION OVER THE COUNTY IN

1 WHICH THE LAND IS LOCATED FOR AN ORDER DETERMINING WHETHER THE
2 INCLUSION OF THE LAND IN THE URBAN RENEWAL AREA IS CONSISTENT
3 WITH ONE OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II) OF
4 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND SHALL HAVE AN
5 ADDITIONAL THIRTY DAYS FROM THE DATE IT RECEIVES THE NOTICE IN
6 WHICH TO FILE SUCH ACTION. IF THE MUNICIPALITY FAILS TO FILE SUCH AN
7 ACTION WITHIN THE ADDITIONAL THIRTY-DAY PERIOD, THE AGRICULTURAL
8 LAND SHALL NOT BECOME PART OF THE URBAN RENEWAL AREA.

9 **SECTION 6. Applicability.** This act shall apply to urban
10 renewal plans approved or substantially modified on or after the effective
11 date of this act.

12 **SECTION 7. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.