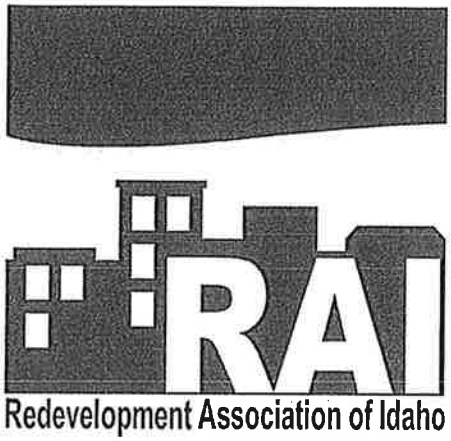

March 23, 2016

VIA EMAIL AND HAND DELIVERY

Senate Local Government & Taxation Committee
The Honorable Jeff Siddoway, Chairman
Idaho State Capitol
700 W. Jefferson
Room WW53
Boise, ID 83720-0042

RE: Redevelopment Association of Idaho, Inc.'s Position – Cannot Support **HB606a**

Dear Chairman Siddoway:

I am the current President of the Redevelopment Association of Idaho, Inc. (RAI). The members of RAI include a majority of the urban renewal/redevelopment agencies in the State. RAI was formed for the purpose of, and is committed to, facilitation of communication between and among Idaho redevelopment practitioners, education and encouragement of best practices in the redevelopment enterprise, facilitation of compliance with applicable state laws, and improvement of accountability and advancement of the effectiveness of the redevelopment tool. Since RAI's incorporation in late-2010, RAI has regularly advised and updated its membership as to all changes to the urban renewal laws and/or laws impacting urban renewal agencies. RAI also has had the opportunity to assist representatives of the Idaho State Tax Commission with the collection of data. RAI works closely with representatives of the Association of Idaho Cities.

RAI has reviewed and analyzed **HB606a**. The amendments made by the House on Friday, March 18, 2016, improve the bill by protecting those urban renewal plans approved by urban renewal agencies and their sponsoring cities who seek an amendment to their plans without triggering a reset of the base assessment value. However, additional amendments modernizing this important economic development tool are needed to allow new plans adopted after July 1, 2016, to respond to economic development opportunities. Consequently, RAI **cannot support HB606a.**

RAI applauds the efforts of the Urban Renewal Interim Committee Co-Chairs Senator Dan

Attachment 2

Johnson and Representative Rick Youngblood, along with the other Interim Committee members, all of whom spent many meetings and hours analyzing the Idaho Urban Renewal Law, Chapter 20, Title 50, Idaho Code, and the Local Economic Development Act, Chapter 29, Title 50, Idaho Code. From the outset the Interim Committee was charged with making urban renewal "better," but in the process ensuring "no harm" was done to one of the very few economic development tools available to local government. The Interim Committee worked hard to find a balance in modernizing the urban renewal tool and to improve upon the perceived lack of accountability and transparency of urban renewal agencies.

During the Interim Committee process, RAI representatives, its members and its counsel provided to the Interim Committee a great deal of background information, many examples of successful projects, attended meetings with individual Interim Committee members and offered to assist in the drafting of proposed legislation.

Ultimately, urban renewal agency representatives conceded their positions in order to reach consensus on a number of issues, such as: agency board composition, limitations on the use of tax increment revenue to fund construction of certain public buildings, and increased reporting requirements and penalties for non-compliance. As a result, while not actively supportive of the Interim Committee's recommendations dated February 18, 2016, RAI was willing to stand down and remain neutral on that proposed bill. The Interim Committee proposal provided for plan amendments responding to unanticipated economic development opportunity. **HB606a** continues to limit the ability of urban renewal agencies to respond to real economic development opportunities.

Despite the initial goals of the Interim Committee to modernize the economic development tool and do "no harm," the efforts once again turned towards "reining in" urban renewal agencies. This annual effort to limit urban renewal agencies and the use of revenue allocations has reached the point where passage of **HB606a** will impact the viability of the economic development tool and calculation of lost opportunities cannot be defined. Business requires consistent application of policies and stability. These frequent statutory revisions that have a direct impact on an agency's revenue stream also impact an agency's ability to access financial markets. With **HB606a,** for plans adopted after July 1, 2016, there is a factual issue as to under what circumstances a plan may be modified. Business will not expend its resources in an area where litigation will be imminent and will locate elsewhere, likely outside of Idaho, where there is more certainty.

RAI's main concerns over **HB606a** are as follows:

Urban renewal agencies need to retain flexibility to respond to unanticipated economic development opportunities.

Section 4 (p. 9) of **HB606a** sets forth the limited circumstances when an agency can amend a plan without resetting the base values of the entire revenue allocation area to the then current values:

- Technical or ministerial changes to a plan that do not involve an increase in the use of revenues allocated to the agency (p. 9, ll:32-35).
- One-time increase to a revenue allocation area by 10% (as is currently allowed under Idaho Code § 50-2033) and the expansion must be contiguous to the existing revenue allocation area. (p. 9, ll:36-38).
- De-annexation of parcels from within a revenue allocation area (p. 9, ll:39-40).
- To support growth of an existing commercial or industrial project in an existing revenue allocation area (p. 9, ll:41-44).

Based on the above, there is no ability to amend a plan adopted after July 1, 2016, to identify projects in support of unanticipated or new economic development opportunities, an exception unanimously approved by the Interim Committee in its February 18, 2016, recommendations. The effect of this language is to preclude urban renewal agencies from amending their urban renewal plans adopted after July 1, 2016.

Requiring an urban renewal plan to have "specificity" creates litigation risks requires plan amendments.

Section 5 of HB606a (p. 10, l.47) requires an urban renewal plan to include "specificity." The level of plan specificity is subjective and could lead to unnecessary litigation. Additionally, the statutory life of an urban renewal plan is 20 years. The level of detail required would be impossible. Any deviation from a specific plan would require an amendment, which would reset the base as an exception would likely not apply. Urban renewal plans, specifically for a deteriorated, downtown area require flexibility to support unanticipated economic development opportunities that by definition cannot be defined with a level of specificity at plan adoption. By requiring a plan to include with specificity those items listed on page 11 of the bill without any opportunity for amendment will hinder economic development.

The potential loss of revenue stream due to plan modification or non-compliance with new reporting requirements makes accessing financial markets even more difficult.

Under current law it is difficult for urban renewal agencies to access financial markets. Underwriters, developers, lenders, and others have to be satisfied that the anticipated revenue stream will be there. The proposed new language in **HB606a** could create an impairment of contracts issue and will have to be disclosed. This will make it even more difficult for agencies to access the financial markets.

- P. 10, ll:1-24. If a modification is deemed to occur, which may be a question of fact, or litigated, the base assessment value resets to the then current value resulting in an immediate loss of revenue for the agency. There is some protection for the repayment of "indebtedness," but there is a requirement any excess be rebated back to the taxing districts. This will not provide much comfort

to the financial markets, if for example there is a shortfall one year and but for the modification, the revenue would have been in the agency's account to pay the obligation. Additionally, **HB606a** provides no protection for those agencies which fund their projects on a pay-as-you-go basis. At the very least this new language will require specific disclosure by any agency seeking to borrow funds from any source and may result in negative responses from those sources, higher financing costs or more burdensome loan covenants.

- P. 13, ll:14-32. This language provides that if an agency fails to provide a copy of its plan or amended plan, or other certification, to the State Tax Commission, the agency will annually lose any property tax revenue that exceeds the amount received in the immediate prior tax year. Additionally, the agency will also lose its annual distribution of the personal property tax reimbursement amount and be subject to a county imposed fine. **There is no protection for outstanding indebtedness.** This potentially draconian penalty for an administrative oversight could lead to immediate default of debt or in a year of shortfall, an impairment of contracts claim. Again, this section results in the same disclosure and response impacts described in the previous bullet point.

Based on the foregoing, the RAI cannot support **HB606a** without at least providing for amendments to those plans adopted after July 1, 2016.

Please feel free to contact me should you have any further questions or concerns.

Sincerely,

Gary Riedner
President
Redevelopment Association of Idaho, Inc.

cc: The Honorable Jim Guthrie, Vice Chairman
The Honorable Curt McKenzie
The Honorable Dan Johnson
The Honorable Jim Rice
The Honorable Steve Vick
The Honorable Clifford Bayer
The Honorable Grant Burgoyne
The Honorable Michelle Stennett
Jennifer Carr, Secretary