



March 7, 2016

VIA EMAIL AND HAND DELIVERY

House Revenue & Taxation Committee
The Honorable Gary Collins, Chairman
Room EW42
Boise, ID 83720-0042

RE: Redevelopment Association of Idaho, Inc.'s Position – HB572

Dear Chairman Collins:

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. The 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, the RAI has regularly advised and updated its membership as to all changes to the urban renewal laws and/or laws impacting urban renewal agencies. The RAI also has had the opportunity to assist representatives of the Idaho State Tax Commission with the collection of data. The RAI works closely with representatives of the Association of Idaho Cities.

The RAI has reviewed and analyzed **HB572**. As there are certain provisions of this bill that will cause significant harm to the use of urban renewal as an economic development tool, the RAI **opposes HB572**.

The RAI is appreciative of the hard work of the Urban Renewal Interim Committee, especially Co-Chairs Senator Dan Johnson and Representative Rick Youngblood, 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, the RAI was willing to stand down and remain neutral on that proposed bill. However, **HB572** strays from the recommendations of the Interim Committee in a manner that does significant harm to the economic development tool and the RAI cannot support **HB572**.

Despite the initial goals of the Interim Committee to modernize the economic development tool and do "no harm," the efforts once again focused upon "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 **HB572** will have a tremendous negative impact upon the viability of urban renewal as an 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 **HB572** there is also 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.

The RAI's main concerns over **HB572** are as follows:

Urban Renewal Agencies Need to Retain Flexibility to Respond to Unanticipated Economic Development Opportunities

The Interim Committee concluded that modification of an urban renewal plan causes a re-set of the base assessment roll values from the year of approval of an urban renewal plan to the value for the entire revenue allocation area upon plan amendment approval, with certain limited circumstances. (See p.4, ll: 44-46; Section 7, p. 9.) The effect of the base re-set is the loss of the increment value, which results in the termination of an agency's revenue stream. Since the adoption of the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, in 1988, modification of an urban renewal plan has never been interpreted to re-set the base. At the request of the Urban Renewal Interim Committee, the Attorney General's office issued an opinion on this issue, dated November 12, 2015, which acknowledged the conflict in the statutory language, but was ultimately inconclusive.

Section 4, p.9, ll: 18-30 of **HB572** sets forth the limited circumstances when an agency can amend a plan without re-setting 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: 18-21).
- 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. However, this exception does not appear to allow changes to the plan text to accommodate new projects, which would likely defeat the justification to expand the revenue allocation area boundary (p. 9, ll: 22-24).
- De-annexation of parcels from within a revenue allocation area (p. 9, ll: 25-26).
- To support growth of an existing commercial or industrial project in an existing revenue allocation area (p. 9, ll: 27-30).

Based on the above, there is no ability to amend an existing urban renewal plan to identify projects in support of unanticipated economic development opportunities, an exception approved by the Interim Committee in its February 18, 2016, proposal. The effect of this language is to preclude urban renewal agencies from amending their urban renewal plans. It is unclear what problem this language in **HB572** is attempting to fix. Currently, when an agency amends its plan it does so at an open, public meeting. Further, it is important to note that under current law a plan amendment does not extend the life of the revenue allocation area. Under current law, there is no ability to form a new revenue allocation area on top of an existing area. Additionally, when a new area is created, there is no revenue to fund projects, and single purpose plan areas may not generate the necessary revenue stream and are a riskier investment for the financial markets. Taking parcels out of an existing revenue allocation area may not be possible due to existing financing covenants that rely on the increment from those parcels. Based on the foregoing, the RAI cannot support **HB572**.

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 existing law it is not easy 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 to meet obligations. The proposed new language in **HB572** 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.9, l:35-p.10, l:20. If a modification is deemed to occur (which may be a question of fact, ultimately subject to litigation), the base assessment value re-sets 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 that 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, **HB572** 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.12, ll:1-19. 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 **HB572**.

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

Sincerely,



Gary J. Riedner
President
Redevelopment Association of Idaho, Inc.

Enclosure

cc: The Honorable Janet Trujillo, Vice Chairman
The Honorable Mike Moyle
The Honorable Dell Raybould
The Honorable Neil Anderson
The Honorable Robert Anderst
The Honorable Thomas Dayley
The Honorable Stephen Hartgen
The Honorable Clark Kauffman
The Honorable Greg Chaney
The Honorable Ronald Nate
The Honorable Heather Scott
The Honorable Jeff Thompson
The Honorable Mat Erpelding
The Honorable Mark Nye
The Honorable Dan Rudolph
Bev Bean, Secretary